

**No. 05-19-00607-CV**

PETER BEASLEY,

Appellant,

v.

SOCIETY FOR INFORMATION  
MANAGEMENT, ET. AL,

Appellees.

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§

IN THE 5<sup>th</sup> DISTRICT COURT

FILED IN  
5th COURT OF APPEALS  
DALLAS, TEXAS

COURT REPORTER  
8/26/2019 10:42:50 PM

LISA MATZ  
Clerk

DALLAS, TEXAS

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**OPPOSED 1<sup>ST</sup> AMENDED MOTION FOR EMERGENCY TEMPORARY  
ORDERS**

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TO THE HONORABLE JUSTICES OF SAID COURT:

COMES NOW, Appellant, Peter Beasley, (“Beasley”), pursuant to Rule 24.4,  
and states the following:

The original motion was tendered on Friday, August 23, 2019, but the Clerk  
rejected the filing Monday August 26, for technical reasons. This amended filing  
of the 26<sup>th</sup> has been made under the same filing envelope as the August 23<sup>rd</sup>  
original.

This court issued its first order in this appeal August 19, 2019, confirming that  
Appellant has successfully perfected an appeal, and this court has accepted  
jurisdiction over a December 11, 2018, “Prefiling Order” issued by the 191<sup>st</sup>  
District Court of Dallas County, in cause No. DC-18-05278, *Beasley v. The  
Society for Information Management, et. al.*, EXHIBIT A.

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### **Relief Requested**

Appellant requests an order of this court to direct the trial court 1) to refrain from directing Appellant to not file documents to advance this appeal, 2) to refrain from interfering with Appellant obtaining a hearing to prove that defense counsel do not have the authority to defend Appellant’s appeal, and 3) to confer jurisdiction to the trial court to conduct a disqualification and Rule 12 hearing on the challenged defense counsel.

## **Important Question of Law**

Whether Judges and Justices of the George Allen Courthouse may deny access to the courts under any statute, case law, or valid local practice in order to protect an attorney from disqualification by an alleged vexatious litigant?

## **Relevant Timeline**

1. The trial court entered a final judgment dismissing Appellant's lawsuit on June 11, 2019. On July 11, 2019, Appellant filed a Motion for New Trial, extending the **trial court's jurisdiction to September 9, 2019**.

2. With the recent family loss of Judge Slaughter, Appellant set a hearing on August 7, 2019, before Associate Judge Purdy to obtain court assistance in setting the motion for new trial for a hearing. But Judge Purdy, would not even allow Appellant a hearing to obtain a hearing! As a result, Appellant seeks help from this court to obtain a hearing on his pending motions to prosecute this appeal.

## **The Trial Court Not Allowing Beasley Hearings**

3. Beasley had three motions set for hearing before the Judge Purdy, an associate judge, and in a very short interchange, EXHIBIT B, she denied him a hearing saying:

THE COURT: Okay. Question for you, Mr. Beasley: Have you filed or paid the applicable fee with respect to being found to be a vexatious litigant?

MR. BEASLEY: The fee?

THE COURT: Uh-huh.

MR. BEASLEY: You mean the bond?

THE COURT: Correct.

MR. BEASLEY: No. That was in – yeah, no.

THE COURT: Okay. And do you understand that you can't file anything until that is paid, that bond is paid, that that particular order is saying that in order to proceed in Court, if you're going to file any additional motions after that particular order, that you would have to pay that bond in which to do so?

MR. BEASLEY: No, I did not understand that and –

THE COURT: That is the case.

MR. BEASLEY: Documents like the motion for new trial on findings of fact and conclusions of law, Ms. Ramsey, my attorney, has filed documents, so I understand that order prevents me from filing another lawsuit, without permission, and I understand that Judge Slaughter –

THE COURT: Well, it essentially prevents you from filing anything further, without permission, until that particular bond is paid.

. . . . .

THE COURT: Well, we have two things occurring right now.

First, you have this order out there declaring you as a vexatious litigant, and it indicates until a bond is paid, until you pay that particular bond, you cannot continue to file things as it relates to this lawsuit, or as it relates to others, so that's one thing.

The second thing, as an Associate Judge, as Mr. Vogel has pointed out, I have matters that are referred to me from a District Court. Judge Slaughter is in a unique position this particular week, she's out, she's had a death in her family, and I have been sitting for her Court trying to manage those things that I can so that when she does return, she's not so overwhelmed with things that did not get done in her absence. And so a referral has not been made to me<sup>1</sup>. You will have to set this before Judge Slaughter, but you need to pay attention to or take a look or read that particular order that declares you a vexatious litigant so that you understand what you may do from this point forward.

MR. BEASLEY: I've unfortunately have read it too many times, and nowhere does it say I cannot file anything more. Now, maybe there's some case law that the Court is referring to, but that order nowhere says I cannot file anything further in this lawsuit.

4. Judge Purdy went further – voicing to Beasley the 191<sup>st</sup> court's sentiment, that Beasley can file no more documents<sup>2</sup> nor be able to proceed further to obtain any hearings in support of, or to avoid the necessity of this and further appeals. The court's tone, which the written transcription does not capture, suggests that Beasley may even face a false judgment and illegal imprisonment for a contempt of court, unless he receives protection and assistance from this court.

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<sup>1</sup> In reality, both associate judges Purdy and McFarlin serve under an Omnibus Order of Referral granting them referrals on “all matters that come before” the 191<sup>st</sup> District Court. EXHIBIT C.

<sup>2</sup> In spite of the 191<sup>st</sup> court sentiment, Beasley has continued to file documents (i.e. Supplemental Reporter's Record Request) which are still being accepted by the District Clerk. However, his post-judgment motions for hearings have been stricken, or not set for a hearing.

5. Somehow, the respected associate judge overlooks that the “vexatious litigant” determination facing Beasley, like all other judgments in our form of Texas and American jurisprudence, is entitled to at least one appeal. Judge Purdy and the trial judges have a vital role to ensure their judgments are correct. People are human and processes break. Trial courts and judges cannot condemn a litigant, and hear him no further, without offering the hearing and filings to appeal.

## **ARGUMENT & AUTHORITIES**

### **No Statutory Support to Deny a Vexatious Litigant a Hearing**

6. Irrespective of what the associate judge opined, nowhere does the Vexatious Litigant order of December 11, 2018, prohibit Beasley from filing documents nor from obtaining any further hearings. EXHIBIT A.

7. Likewise, there is no statutory support under the Vexatious Litigant statute or from case law which authorizes the trial court to deny Beasley a hearing to challenge the attorneys defending this appeal or to prevent a hearing on a motion for new trial. The penalties for being declared a vexatious plaintiff includes a dismissal of the plaintiff’s lawsuit, Tex. Civ. Prac. & Rem. § 11.056, but does not deny that litigant from proceeding through the short, normal, post-judgment proceedings which are assured by numerous statutes, rules and by the Texas Constitution.

8. A “vexatious litigant” may not be denied due course of law, as suggested and demonstrated by the associate judge. The statute specifically authorizes that a Prefiling Order may be appealed, Tex. Civ. Prac. & Rem. § 11.101(c), and that process includes filing documents with the trial clerks. Other Texas counties under the guidance of other appellate jurisdictions do allow litigants who have been found to be vexatious to have hearings on their motions for new trial and to file documents. *See, Leonard v. Abbott*, 171 S.W.3d 451, 457-58 (Tex.App.-Austin 2005, pet. denied). Beasley has the right to *completely* perfect his appeal.

### **The Admitted Civil Rights Depravation Conspiracy in Dallas**

9. The associate judge went further – her admitting a historical pattern of civil rights violations by the entire Dallas courthouse.

“ ... historically, when someone has been declared a vexatious litigant, until that bond is paid, they are not able to file anything else *in this particular courthouse*.” EXHIBIT B, pg. 9, lns. 14 – 17.

This sounds like a conspiracy! Judge Purdy baldly advises that a Dallas trial court or a trial judge, even motivated by malice, could *order anything* against an accused vexatious litigant, who could then file nothing to correct it. She says, “This is the case,” even though her position violates every American citizens’ and Texan’s civil rights of due process, open courts, and due course of law.

10. Given the registry of the George Allen Courthouse, Judge Purdy seemingly implicates the Dallas District and County Courts, the District & County Clerks, and this Court of Appeals too, along with its Clerk as being complicit with the practice to deny vexatious litigants their civil rights.

11. This court's clerk and the district clerk are still accepting Beasley's filings, so you have to wonder, is it just the judges and justices of Dallas County who participate in this historical pattern of rights deprivation? As detailed below, Judge Slaughter, the Presiding Civil District Judge of Dallas County seems to model the "rights deprivation" approach – with her having stricken Beasley's May 14, 2019, motion to challenge the authority of defense counsel, Peter Vogel.

### **Is Peter Vogel Above the Law?**

12. Beasley has attempted to set his Rule 12 motions for hearing six times in these proceedings, but has been unable to get a hearing even once.

13. Before defendants filed their vexatious litigant motion<sup>3</sup>, the 296<sup>th</sup> District Court of Collin County denied Beasley a Rule 12 hearing – saying the venue question must first be decided. *See*, 3<sup>rd</sup> Supplemental Reporter's Record, 04/03/2018 Hearing, pg. 5, lines 1 – 10. (filed 8/23/19).

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<sup>3</sup> April 19, 2018



14. After the vexatious litigant motion was filed but before it was ruled upon, Beasley sought to lift the stay to allow the Rule 12 hearing in the 44<sup>th</sup> and 162<sup>nd</sup> District Courts of Dallas County, but Beasley was not allowed a hearing.

15. Beasley tried again on **August 15, 2018**. EXHIBIT D. But on September 20, 2018, on the day of the vexatious litigant hearing, Judge Slaughter of the 191<sup>st</sup> District Court denied Beasley a hearing, saying the vexatious litigant issue had to be decided first. *See*, Reporter's Record, 09/20/2018 Hearing, pg. 8, lines 9 – 15.

16. And then *after* the vexatious litigant determination, Beasley tried again on **May 14, 2019** to challenge the authority of defense counsel. EXHIBIT E. But, Judge Slaughter held an emergency hearing<sup>4</sup> on **July 11, 2019**, and struck Beasley's motion, EXHIBIT F – denying Beasley a July 14, 2019, hearing. *See*, 2<sup>nd</sup> Supplemental Reporter's Record, Volume 1, 06/11/2019 Hearing. (filed 8/23/2019).

### **Gender-Based Bullying of Female Judges is Abhorrent**

17. It is well documented that female jurists are often victimized by dominating behavior by male advocates. *See*, Tonja Jacobi and Dylan Schweers,

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<sup>4</sup> Defendants misled the court with a false legal argument that *Gant v. Grand Prairie Ford, L.P.*, No. 02-06-00386-CV, 2007 Tex.App. LEXIS 5727, 2007 WL 2067753, \*9 (Tex.App.—Fort Worth July 19, 2007) (pet. denied) stands for the proposition to deny a vexatious litigant any further hearings. EXHIBIT G.

*Female Supreme Court Justices Are Interrupted More by Male Justices and Advocates*, Harvard Business Review, April 11, 2017, <https://hbr.org/2017/04/female-supreme-court-justices-are-interrupted-more-by-male-justices-and-advocates>, accessed August 2019. EXHIBIT H. Women lawyers and judges in Dallas can identify with this obstruction, and often it requires men in the legal profession to stand against these abuses for them to ever end.

18. It is not reasonably conceivable that Judge Purdy and Peter Vogel did not know that a specific referral order was not required for Beasley to have a hearing before an associate judge under an Omnibus Referral Order. Instead, attorney Vogel repeatedly interrupted the judge, and used his influence to rebuke the judge to form a tacit, unspoken agreement with the court to deny Beasley a hearing. Attorney Vogel's lack of candor is a violation of the Disciplinary Rules for Professional Conduct; TEX. DISCIPLINARY R. PROF. CONDUCT, (2018) REPRINTED IN TEX. GOVT CODE ANN., TIT. 2, SUBTIT. G, APP. RULE § 3.03(a)(1) CANDOR TOWARD THE TRIBUNAL.

19. If you remove Vogel's interruptions, you can readily see Judge Purdy's intent: to explain that Judge Slaughter was out of the office due to a death in her family, and that she was sitting to handle the 191<sup>st</sup> district court's docket – which included Beasley's motion to obtain a hearing.

20. But she submitted to Peter Vogel's false argument, ruling and denying Beasley a hearing saying "Correct", and "Correct. Correct." and even "Okay. All right." Closing with, "So the three motions that you have set today, they will not be going forward." Not to argue with the judge, Beasley submitted too.

21. Surely, Judge Purdy was not lying – that she needed a referral order to give Beasley a hearing, was she? Instead, she was not given the respect of an honest legal argument deserving of her position in authority by a cunning, crafty advocate who is willing to posture his prestige and years of experience along with a false legal argument to bully the court to error. Was Judge Purdy telling the truth that there truly is a pattern amongst the civil district and court judges to deny litigants their civil rights, or was this again her trying to find a way to deal with a powerful, well-connected advocate's pressure on the judge to submit to violating the civil rights of an unconnected, powerless, *pro se* litigant.

22. Judge Slaughter, a female jurist, also submitted to a male advocate on September 20, 2018, when she knew of the established, better practice that protects the rights of litigant from false attacks from unauthorized attorneys:

THE Court: ... well, we have motions to disqualify and show authority, and *usually those come first* but, obviously, I think, you're right, the vexatious litigant has come first.<sup>5</sup>

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<sup>5</sup> Reporter's Record, pg. 8, lns. 12 - 15

And once again, July 11, 2019, based on a false legal argument, Defendants misled the court that *Gant v. Grand Prairie Ford, L.P.*, No. 02-06-00386-CV, 2007 Tex.App. LEXIS 5727, 2007 WL 2067753, \*9 (Tex.App.—Fort Worth July 19, 2007) (pet. denied) somehow stands for the proposition that a trial judge, the clerks, and an entire courthouse can deny an alleged vexatious litigant any further hearings. EXHIBIT G.

23. A pattern of an attorney making false legal arguments, without candor to the court, is a violation of the Bar Rules, for which disqualification may occur. August 10, 2018, Judge Maricella Moore, a female, has been recused in these proceedings in a contested hearing by the Regional Administrative Judge, The Honorable Ray Wheless. Ray's wife, Cynthia Wheless has also become recused in these proceedings too.

24. This court of appeals and the Texas Supreme Court<sup>6</sup> has been embroiled in at least 13 original proceedings and appeals between these parties over the last 3 years, which Appellant argues are rooted in the disciplinary violations of defense counsel, Peter Vogel in particular, against a *pro se* litigant. And unless the trial judges allow Beasley a hearing and he prevails in his Motion for New Trial, one more appeal is forthcoming September 9.

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<sup>6</sup> No. 19-0041 is concurrently pending in the Supreme Court, with Appellees' brief due September 10, 2019.

## **The Rule 12 Hearing is Relevant**

25. Upon a hearing Beasley will show, Peter Vogel, and none of the defense counsel have ever demonstrated they represent the individual defendants Nellson Burns and Janis O'Bryan. Defendants have filed Mr. Vogel's own sworn contract which outlines he DOES NOT represent Burns and O'Bryan, yet he persists in representing to the courts that he does. Even if Burns and O'Bryan could swear-out an affidavit that these lawyers represent them, such a representation would be barred as an impermissible "conflict of interest" as the Derivative Claims against the individual defendants are adverse to defendant SIM-DFW, the lawyer's principle client.

26. The fact that none of these lawyers represent O'Bryan is relevant to this appeal as she may be the only defendant with clean hands who was not estopped from seeking a declaration that Beasley may be a vexatious litigant – the basis for the underlying judgment on appeal.

27. Likewise, upon a hearing, Beasley will show that none of the defense lawyers were ever authorized by the SIM DFW Board of Directors to represent the corporation<sup>7</sup>. Defendants have filed court documents specifically stating that

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<sup>7</sup> The authorization must be from a resolution of the board. *See, In re Salazar*, 315 S.W.3d 279, 286 (Tex. App.-Fort Worth 2010, orig. proceeding) (the trial court abused its discretion in not determining which faction of the corporation authorized the attorney to represent them).

they have no retainer agreement or contract with the lawyers from Gordon & Rees, and without a valid action of the Board (which Beasley had been a member), these lawyers were and are without authority to defend this appeal.

28. Attorney Vogel will be disqualified for a litany of reasons including that he has been a lawyer on both sides of this dispute, he has represented he has been a party to the conflict, he constantly testifies as a party while serving as an officer of the court, and he will be disqualified because he has a personal financial interest in the lawsuit's outcome.

29. The Rule 12 issues are relevant to this appeal, as if the defense lawyers do not actually represent the defendants, the orders they fraudulently procured against Beasley would be void. The trial court should not be allowed to interfere with Beasley obtaining a hearing to present all of the reasonable defenses he can in this appeal. The trial court actively denying Beasley a hearing on his Rule 12 challenge interferes with this court's jurisdiction over the appeal.

### **Prohibiting Interference with This Court's Jurisdiction**

30. Each court of appeals or a justice of a court of appeals may issue a writ of mandamus and all other writs necessary to enforce the jurisdiction of the court. Tex. Govt. Code § 22.221(a). Likewise, this court has all powers necessary for the exercise of its jurisdiction and the enforcement of its lawful orders, including

authority to issue the writs and orders necessary or proper in aid of its jurisdiction. Tex. Govt. Code § 21.001(a).

31. The court may issue a writ of prohibition to protect the subject matter of an appeal or to prohibit an unlawful interference with enforcement of an appellate court's judgment. *Holloway v. Fifth Court of Appeals*, 767 S.W.2d 680, 683 (Tex. 1989) (orig. proceeding). The writ is designed to operate like an injunction issued by a superior court to control, limit, or prevent action in a court of inferior jurisdiction. *Id.* at 682–83. A writ of prohibition has three functions: (1) preventing interference with higher courts in deciding a pending appeal; (2) preventing an inferior court from entertaining suits that will re-litigate controversies already settled by the issuing court; and (3) prohibiting a trial court's action when it affirmatively appears the court lacks jurisdiction. *Humble Expl. Co., Inc. v. Walker*, 641 S.W.2d 941, 943 (Tex. App.—Dallas 1982, orig. proceeding).

32. The Supreme Court rules further allow this court to issue any temporary orders necessary to preserve the parties' rights. Tex. R. App. P. 24.4(c).

#### Beasley's Right to Challenge an Attorney

33. Beasley has a right under Rule 12 to challenge any attorney he believes is defended a proceeding without authority, and to cause the attorney to be cited to

appear before the court and show their authority to act. Tex. R. App. P. 12. The exclusive method to challenge such authority is through a Rule 12 motion, *Tanner v. Black*, 464 S.W.3d 23, 26 (Tex. App.-Houston [1st Dist.] 2015, no pet.).

34. Beasley has the right to bring a point of error that the defense attorneys were without authority to 1) defend the underlying lawsuit, 2) to file the April 18, 2018 motion to declare Beasley a vexatious litigant, and 3) that the December 18, 2018 judgment is void.

#### The Rule 12 Motion is Timely

35. This motion is timely before this court as the trial court rulings to 1) first decide venue, and then 2) to first decide the vexatious litigant issue prevented Beasley from *ever* obtaining a hearing on the challenge until after the vexatious litigant determination was made. And the appellate courts have consistently held that presenting the Rule 12 motion in the court of appeals is too late. *Victory v. State*, 138 Tex. 285, 158 S.W.2d 760 (1942); *City of Grand Prairie v. Finch*, 294 S.W.2d 851 (Tex.Civ.App.—Dallas 1956, no writ). (Rule 12 requires a sworn written motion contesting an attorney's authority to be presented in the trial court).

#### Beasley Has Been Prompt, Diligent and Persistent

36. For over two years, Beasley has persistently tried to get a hearing to challenge the authority of defense counsel, attorney Peter Vogel in particular.



Upon this court representing just 4 days ago, that it will go forward on this appeal<sup>8</sup>, Beasley has diligently sought and obtained supplemental reporter's records (tendered today) and has requested supplemental clerk's records to meet this court's September 3, 2019, briefing schedule. He quickly asked opposing counsel for their agreement on this motion, of which they of course did not agree, and now he promptly seeks this court's assistance.

### **Beasley Has No Other Remedy at Law**

37. Beasley reminds the court that he is *pro se*, and when elected, sitting and appointed associate trial judges actively interfere with an unrepresented citizen's right to file documents and to have access to the courts for hearings, these citizens have little recourse but to ask for help.

38. Beasley is a licensed Professional Engineer, a respected, 60 year old Black Dallas area businessman, and a long-time city and county resident. Defense counsel, the three of them, have used their influence and have relentless hounded Beasley for over two years to put him on the Vexatious Litigant list for the rest of his life, without appellate review. Beasley acts zealously to defend his rights.

39. With the 191<sup>st</sup> District Court's *obviously illegal* on-going pressure to close-off his access to the courts, Beasley has no other remedy but to obtain

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<sup>8</sup> August 22, 2019, this court denied Beasley's right to appeal by mandamus, 05-19-00422-CV.

temporary orders from this court during the trial court's continuing jurisdiction to challenge the attorneys who claim they defend this appeal.

40. Beasley seeks a temporary ruling from this court to:

- a. Direct the 191<sup>st</sup> District Court to not interfere with Beasley filing court documents in support of this appeal,
- b. Direct the 191<sup>st</sup> District Court to not interfere with Beasley obtaining a hearing to 1) challenge the authority of and to seek the disqualification of defense counsel, and 2) to have a hearing on his motion for new trial, and that such hearings may be obtained from any of the sitting District Judges of Dallas County, and to,
- c. Confer continuing jurisdiction to the trial court for a reasonable period to conduct the attorney challenges after September 9, 2019.

Historical patterns can change, as the past November election resoundingly called-out Texans' referendum and ousting of conservative justices in the Dallas, Austin, Houston and San Antonio courts of appeals. Supposedly, we've ushered-in a more liberal, citizen-friendly judiciary. The referenced article suggests the bullying that occurs comes most from conservative advocates, but the greatest correlation documented the bullying was done at women jurists who are unfairly challenged to protect the rights of all.

WHEREFORE, Beasley requests this court GRANT temporary orders to preserve Beasley's rights pending the appeal, to direct the trial court to not interfere with the appeal, and to confirm jurisdiction to allow the Rule 12 and disqualification challenges to occur.

Plaintiff prays for general relief.

Respectfully submitted,  
/s/Peter Beasley  
Peter Beasley, pro se  
P.O. Box 831359  
Richardson, TX 75083-1359  
(972) 365-1170  
[pbeasley@netwatchsolutions.com](mailto:pbeasley@netwatchsolutions.com)

Certificate of Conference

I hereby certify that on the 22<sup>nd</sup> day of August 2019, the parties conferred on the motion, and it is opposed.

/s/Peter Beasley  
Peter Beasley

## DECLARATION OF VERIFICATION

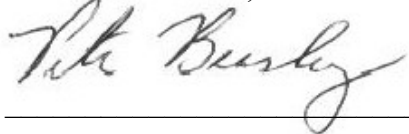
STATE OF TEXAS                   §

COUNTY OF DALLAS           §

My first, middle, and last name is Peter Morell Beasley, my date of birth is September 20, 1958, and my address is 12915 Fall Manor, Dallas, Texas, 75243, United States. I declare under penalty of perjury that the foregoing statements are true and correct.

1. My name is Peter Beasley. I am over the age of twenty-one years, of sound mind, have never been convicted of any felony offense and I am fully competent and authorized to make this declaration. I have personal knowledge of the facts stated herein the Motion due to my personal involvement in the events and occurrences set forth.
2. I am the Appellant in the above entitled and numbered matter.
3. I have read the above and foregoing Motion; that every statement of fact are within my personal knowledge, and are true and correct.
4. The attached exhibits are true copy of the documents they represent, filed in the trial court.

Executed in Dallas, State of Texas, on the 26<sup>th</sup> day of August, 2019.

  
\_\_\_\_\_

Declarant

### Certificate of Service

I hereby certify that on the 26<sup>th</sup> day of August 2019, a true copy of the foregoing instrument was served on opposing counsel for the defendants by electronic means and the electronic transmissions were reported as complete.

/s/Peter Beasley  
Peter Beasley

# Exhibit A

CAUSE NO. DC-18-05278

PETER BEASLEY,	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
v.	§	
	§	DALLAS COUNTY, TEXAS
SOCIETY OF INFORMATION	§	
MANAGEMENT, DALLAS AREA	§	
CHAPTER, et al.,	§	
	§	
Defendant.	§	191st JUDICIAL DISTRICT

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ORDER GRANTING DEFENDANTS' MOTION TO  
DECLARE PETER BEASLEY A VEXATIOUS LITIGANT

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On September 20, 2018, the undersigned heard Defendants' Motion to Declare Peter Beasley a Vexatious Litigant. The Parties appeared through counsel. After considering the motion, the post-hearing briefing from both parties, the evidence presented, and arguments of counsel, the Court finds that the statutory elements are satisfied in all respects and therefore makes the following ORDER.

The Motion to Declare Peter Beasley a Vexatious Litigant is **GRANTED** and the Court declares Peter Beasley a Vexatious Litigant.

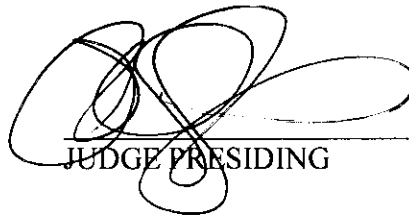
Plaintiff Peter Beasley is required to post bond in the amount of \$422,064.00 with the District Clerk as security per TEX. CIV. PRAC. & REM. CODE § 11.055 within thirty (30) days of this Order. If such security is not timely posted, this case will be dismissed with prejudice per TEX. CIV. PRAC. & REM. CODE § 11.056.

Furthermore, the Court prohibits Plaintiff Peter Beasley from filing any new lawsuits *pro se* in any court in the State of Texas until Plaintiff receives permission from

the appropriate local administrative judge pursuant to sections 11.101 and 11.102 of the TEX. CIV. PRAC. & REM. CODE. Failure to comply with this ORDER shall be punishable by contempt, jail time, and all other lawful means of enforcement. TEX. CIV. PRAC. & REM. CODE § 11.101(b).

It is further ORDERED that the Clerk of the Court provide a copy of this order to the Office of Court administration of the Texas Judicial System within 30 days of entering this order.

SIGNED this 17th day of December, 2018.

  
JUDGE PRESIDING

# Exhibit B



REPORTER'S RECORD

TRIAL COURT CAUSE NO. DC-18-05278-J

PETER BEASLEY,	)	IN THE DISTRICT COURT
	)	
Plaintiff,	)	
	)	
VS	)	DALLAS COUNTY, TEXAS
	)	
SOCIETY OF INFORMATION	)	
MANAGEMENT, DALLAS AREA	)	
CHAPTER, ET AL,	)	
	)	
Defendants.	)	191ST JUDICIAL DISTRICT

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Motion for Sanctions  
 Motion to Show Authority  
 Motion to Set Hearing

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On the 7th day of August, 2019, a hearing was heard in the above-entitled and numbered cause, and the following proceedings were had before the Honorable Gena Slaughter, Judge Presiding, held in the 191st District Court, Dallas County, Texas:

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Melba D. Wright, Texas CSR #4666  
 Official Court Reporter, 191st Judicial District Court  
 Proceedings reported by Stylus stenotype machine;  
 Reporter's Record produced by ProCAT Winner XP  
 computer-assisted transcription

A P P E A R A N C E S:

FOR THE PLAINTIFF, PRO SE:

Mr. Peter Beasley  
Post Office Box 831359  
Richardson, Texas 75083

(214) 446-8486, Ext. 105

ATTORNEYS FOR THE DEFENDANTS:

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Mr. Peter S. Vogel  
SBOT #: 20601500  
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ALSO PRESENT:

Ms. Daena Ramsey  
SBOT #: 08093970  
Mr. Andrew S. Gardner  
SBOT #: 24078538  
Vaughan & Ramsey  
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(972) 262-0800

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Motion for sanctions  
Motion to Show Authority  
Motion to Set Hearing

August 7, 2019

<u>PROCEEDINGS</u>	<u>PG</u>	<u>VOL</u>
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Announcements	4	1
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Reporter's Certificate	11	1
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<u>PLAINTIFF'S WITNESSES:</u>	<u>DX</u>	<u>XE</u>	<u>RD</u>	<u>RX</u>	<u>VOL</u>
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None.

<u>DEFENDANT'S WITNESSES:</u>	<u>DX</u>	<u>XE</u>	<u>RD</u>	<u>RX</u>	<u>VOL</u>
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None.

EXHIBIT INDEX

<u>PLAINTIFF'S</u>	<u>OFFERED</u>	<u>ADMITTED</u>	<u>VOL</u>
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None.

<u>DEFENDANT'S</u>	<u>OFFERED</u>	<u>ADMITTED</u>	<u>VOL</u>
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None.

1 P-R-O-C-E-E-D-I-N-G-S

2 (9:09 a.m.)

3 THE COURT: Good morning. We are on  
4 the record in Cause No. DC-18-05278, Peter Beasley  
5 versus Society of Information Management, Dallas Area  
6 Chapter, et al.

7 May I have the parties announce on the  
8 record at this time? Let me know your name and who  
9 you represent.

10 MR. BEASLEY: Peter Beasley  
11 representing myself for the plaintiff.

12 THE COURT: All right. Thank you.

13 MS. RAMSEY: Daena Ramsey representing  
14 myself.

15 MR. GARDNER: Andrew Gardner  
16 representing myself.

17 MS. GARCIA: Sona Garcia on behalf of  
18 defendants.

19 MR. VOGEL: Peter Vogel on behalf of  
20 the defendants.

21 THE COURT: I understand what is set  
22 today is a motion for sanctions, which has been filed  
23 by the plaintiff; is that correct, Mr. Beasley?

24 MR. BEASLEY: Yes, there are two  
25 motions -- three motions set for today, a motion for

1 sanctions, motion to show authority, and a motion for  
2 a hearing to set a hearing.

3 THE COURT: Okay. Question for you,  
4 Mr. Beasley: Have you filed or paid the applicable  
5 fee with respect to being found to be a vexatious  
6 litigant?

7 MR. BEASLEY: The fee?

8 THE COURT: Uh-huh.

9 MR. BEASLEY: You mean the bond?

10 THE COURT: Correct.

11 MR. BEASLEY: No. That was in -- yeah,  
12 no.

13 THE COURT: Okay. And do you  
14 understand that you can't file anything until that is  
15 paid, that bond is paid, that that particular order is  
16 saying that in order to proceed in Court, if you're  
17 going to file any additional motions after that  
18 particular order, that you would have to pay that bond  
19 in which to do so?

20 MR. BEASLEY: No, I did not understand  
21 that and --

22 THE COURT: That is the case.

23 MR. BEASLEY: Documents like the motion  
24 for new trial on findings of fact and conclusions of  
25 law, Ms. Ramsey, my attorney, has filed documents, so

1 I understand that order prevents me from filing  
2 another lawsuit, without permission, and I understand  
3 that Judge Slaughter --

4 THE COURT: Well, it essentially  
5 prevents you from filing anything further, without  
6 permission, until that particular bond is paid.

7 MR. BEASLEY: I don't understand it  
8 that way. Again, even a notice of an appeal would be  
9 something to file. Certainly that order can be  
10 appealed, and that'll be a final appeal, a notice of  
11 appeal.

12 THE COURT: What are you trying to  
13 sanction, what conduct are you trying to sanction  
14 today?

15 MR. BEASLEY: My former attorney, Ms.  
16 Ramsey and Mr. Gardner. They have appeared in this  
17 matter, without authority, so there is a motion for  
18 them to demonstrate their authority to appear, and  
19 then also sanctions for filing documents when they  
20 didn't have the proper authority.

21 THE COURT: All right. Anything  
22 you-all would like to say on the record with respect  
23 to what the Court has represented in terms of the bond  
24 not being paid, and the understanding that no further  
25 documents might be filed in this Court until that

1 particular bond is paid?

2 MR. RAMSEY: I have no response to  
3 that, Your Honor.

4 THE COURT: Okay. Mr. Vogel?

5 MR. VOGEL: That's my understanding as  
6 well, Your Honor. And let me also add, with regards  
7 to these three pending motions, as far as I can tell,  
8 nothing has been referred from Judge Slaughter to this  
9 Court to even have to get an order to rule on any of  
10 the motions that are pending here.

11 THE COURT: Well, as we know, Judge  
12 Slaughter is out --

13 MR. VOGEL: I understand that.

14 THE COURT: -- to even have that, so I  
15 am --

16 MR. VOGEL: Or any other visiting  
17 Judge, I'm sorry.

18 THE COURT: Correct.

19 MR. VOGEL: In other words, as far as I  
20 know, there has not been a referral by any District  
21 Judge in this county for you to consider any of these  
22 three motions.

23 THE COURT: Correct. Correct.

24 MR. VOGEL: And without that authority,  
25 I don't think that you could conduct a hearing today.

1 THE COURT: Okay. All right. Mr.  
2 Beasley?

3 MR. BEASLEY: With the Court's ruling  
4 and opinion that I can file nothing, could the Court  
5 at least enter an order to that effect, that I cannot  
6 file anything?

7 THE COURT: Well, we have two things  
8 occurring right now.

9 First, you have this order out there  
10 declaring you as a vexatious litigant, and it  
11 indicates until a bond is paid, until you pay that  
12 particular bond, you cannot continue to file things as  
13 it relates to this lawsuit, or as it relates to  
14 others, so that's one thing.

15 The second thing, as an Associate  
16 Judge, as Mr. Vogel has pointed out, I have matters  
17 that are referred to me from a District Court.

18 Judge Slaughter is in a unique position  
19 this particular week, she's out, she's had a death in  
20 her family, and I have been sitting for her Court  
21 trying to manage those things that I can so that when  
22 she does return, she's not so overwhelmed with things  
23 that did not get done in her absence. And so a  
24 referral has not been made to me. You will have to  
25 set this before Judge Slaughter, but you need to pay



1 attention to or take a look or read that particular  
2 order that declares you a vexatious litigant so that  
3 you understand what you may do from this point  
4 forward.

5 MR. BEASLEY: I've unfortunately have  
6 read it too many times, and nowhere does it say I  
7 cannot file anything more. Now, maybe there's some  
8 case law that the Court is referring to, but that  
9 order nowhere says I cannot file anything further in  
10 this lawsuit.

11 THE COURT: Okay. You may want to have  
12 a lawyer go over it, review it with you. I don't know  
13 if you've have an opportunity to do that but,  
14 historically, when someone has been declared a  
15 vexatious litigant, until that bond is paid, they are  
16 not able to file anything else in this particular  
17 courthouse.

18 MR. BEASLEY: Not even a notice of  
19 appeal?

20 THE COURT: Well, I can't give you  
21 legal advice. So that's one of the downsides of  
22 representing yourself.

23 what I'm telling you is, you might want  
24 to take a look at that order again, you might want to  
25 have a lawyer to review it, to explain to it you, but

1 I'm not in a position to give you legal advice. Okay?

2 So the three motions that you have set  
3 today, they will not be going forward.

4 MR. BEASLEY: Okay.

5 THE COURT: okay?

6 MR. BEASLEY: All right.

7 THE COURT: All right. That concludes  
8 our hearing. Thank you.

9 MS. RAMSEY: Thank you, Your Honor.

10 MR. VOGEL: Thank you, Judge.

11 MS. GARCIA: Thank you, Your Honor.

12 (Off the record - 9:15 a.m.)

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## C E R T I F I C A T E

THE STATE OF TEXAS )

COUNTY OF DALLAS )

I, Melba D. Wright, CSR, Official Court Reporter in and for the 191st Judicial District, State of Texas, do hereby certify that the above and foregoing contains a true and correct transcription of all portions of evidence and other proceedings requested in writing by counsel for the parties to be included in the statement of facts in this volume of the Reporter's Record in the above-styled and numbered cause, all of which occurred in open court or in chambers and was reported by me.

I further certify that this Reporter's Record of the proceedings truly and correctly reflects the exhibits, if any, offered by the respective parties.

I further certify that the total cost for the preparation of this Reporter's Record is \$125.00 and was paid by the Plaintiff, Mr. Peter Beasley.

Witness MY OFFICIAL HAND on this, the 15th day of August, 2019.

/s/ Melba D. Wright  
Official Court Reporter  
Expiration Date: 12/31/19  
Texas CSR NO: 4666

191st Judicial District Court  
600 Commerce Street  
Seventh Floor  
Dallas, Texas 75202

(214) 653-7146  
wrightmelba@msn.com

# Exhibit C



**IN THE DISTRICT COURTS  
OF DALLAS COUNTY,  
TEXAS**

**OMNIBUS ORDER OF  
REFERRAL**

**Pursuant to Title 2, Subtitle D, Chapter 54A, Section 54A.101, et seq  
of the Texas Government Code, Enacted by Acts 2011, 82<sup>nd</sup> Leg.,  
effective January 1, 2012,**

**The Civil District Courts of Dallas County hereby refer to**

**Sheryl Day McFarlin  
Associate Judge**

**and**

**Monica McCoy Purdy  
Associate Judge**

**all matters that may come before these Courts. This Order of Referral shall encompass the powers granted under Section 54A.108 of the Tex. Gov't Code.**

**A District Judge may refer any civil case or portion of a civil case to an Associate Judge for resolution, including a trial on the merits. Unless a party files a written objection to the Associate Judge hearing a trial on the merits, the District Judge may refer the trial to the Associate Judge. A party must file an objection no later than the 10<sup>th</sup> day after the date the party receives notice that the Associate**

Judge will hear the trial.

No objection may be made to the referral of any other matter to an Associate Judge. However, a party may file a request for a *de novo* hearing of an Associate Judge's decision within seven working days of receiving notice of said decision. Pending a *de novo* hearing before the referring Court, an order of the Associate Judge is in full force and effect and is enforceable as an order of the referring Court, except for an order providing for the appointment of a receiver.

This Order of Referral is effective as of March 4, 2013.

  
Judge Eric Moyé, 14th

  
Judge Carlos Cortez, 44th


  
Judge Martin Hoffman, 68th

  
Judge Ken Melberg, 95th


  
Judge Marty Lowy, 101st

  
Judge Tonya Parker, 68th 116th

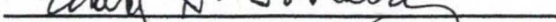
  
Judge Jim Jordan, 160<sup>th</sup>

  
Judge Phyllis Lister Brown,  
162<sup>nd</sup>

  
Judge Gena Slaughter, 191<sup>st</sup>

  
Judge Craig Smith, 192nd

  
Judge Carl Ginsberg, 193<sup>rd</sup>

  
Judge Emily Tobolowsky, 298th

# Exhibit D



**Cause No. DC-18-05278**

PETER BEASLEY,	§	IN THE DISTRICT COURT OF
	§	
	§	
v.	§	DALLAS COUNTY, TEXAS
SOCIETY OF INFORMATION	§	
MANAGEMENT, DALLAS AREA	§	
CHAPTER, JANIS O'BRYAN, NELLSON	§	191 <sup>ST</sup> JUDICIAL DISTRICT
BURNS		

**2<sup>ND</sup> AMENDED MOTIONS TO SHOW AUTHORITY, DISQUALIFY ATTORNEYS AND REQUEST FOR MEDIATION**

NOW COMES, Plaintiff, Peter Beasley, *pro se*, and in support of this Verified Rule 12 Motion to Show Authority, and Motion to Disqualify Attorneys, states the following:

1. This amendment replaces Plaintiff's January 30, February 1, February 5, and February 23, motions to Show Authority, Disqualify Attorneys and Law Firms, Motion for Attorney Fees, and Request for Mediation.
2. The purpose of the amendment is to consolidate the various motions into one document, to highlight new grounds for disqualification, and to show the timeline of the various relevant motions.

**Relevant Timeline of Motions**

3. Plaintiff's motion to Show Authority and Disqualify Attorneys has been pending resolution of 1) Which County (decided April 3), and 2) Which Judge (decided August 15).

Defendant's MTV	Filed January 16, 2018	Decided April 18, 2018
Plaintiff's Show Authority	Filed January 30, 2018	<i>pending</i>
Plaintiff's Attorney Disqualification	Filed February 1 and 5, 2018	<i>pending</i>
Defendant's Vexatious Litigant	Filed April 19, 2018	<i>pending</i>
Plaintiff's Judicial Recusal	Filed May 8, 2018	Decided August 10, 2018
Assignment Order		Decided August 15, 2018



**Motions to Show Authority – As Approved by the SIM Executive Committee**

4. As verified, we ask that Attorney Peter Vogel, Robert Bragalone, and Soña Garcia show their authority to appear before this tribunal as the legal counsel for 1) the Society of Information Management, and 2) for all 300+ individuals, as they claim they represent.

5. At the hearing, the burden of proof is on the challenged attorney to show their authority to prosecute or defend the suit. TEX.R. CIV. P. 12; *Boudreau v. Fed. Trust Bank*, 115 S.W.3d 740, 741 (Tex.App.-Dallas 2003, pet. denied).

**From:** Soña Garcia [mailto:sjgarcia@grsm.com]  
**Sent:** Monday, January 29, 2018 12:39 PM  
**To:** 'pbeasley@netwatchsolutions.com'  
**Cc:** pvogel@gardere.com; Bob Bragalone  
**Subject:** RE: Who do you represent?

Peter,

As Bob noted in his reply to you on January 22 (attached), we oppose any motion to disqualify and we will respond with a Motion for Rule 13 Sanctions. We continue to represent all Defendants, including SIM-DFW and its members.

Soña

6. Plaintiff also asks attorneys Peter Vogel, Bob Bragalone and Soña Garcia to show their authority to represent Janis O'Bryan and Nellson Burns, individually.

7. Further, the bylaws of SIM Dallas do not authorize an officer or board member to retain counsel on behalf of the organization.

8. Certainly too, the SIM Dallas bylaws do not authorize an officer or board member to retain counsel on behalf of 300+ people who are uninvolved and disinterested in these proceedings. Clearly, the SIM Dallas board is incompetent to aver that they authorized these attorneys to represent the individual interests

**From:** Fryar, Eric [mailto:eric@fryarlawfirm.com]  
**Sent:** Friday, August 18, 2017 3:42 PM  
**To:** Vogel, Peter  
**Subject:** Re: FW: Beasley v. SIM

Peter,

Your statement that Mr. Beasley "sued all 300+ members" of SIM is truly astonishing. Try as I might, I cannot bring myself to believe that you do not understand the legal distinction between a corporation and its shareholders. I had thought that your efforts to have the claims against Burns and O'Bryan stricken served some purpose, only now to find out that you still consider them to be parties. As Mel Gibson's character noted in the *Patriot*, pride is a weakness, and I have always had a grudging respect for other lawyers who are willing to say extraordinarily stupid things in the zealous advocacy of their clients. Me? Just don't have that kind of self-assurance.

Eric

 FRYAR LAW FIRM P.C.

ERIC FRYAR  
FRYAR LAW FIRM PC  
912 Prairie STE 100  
Houston, Texas 77002  
Tel. 281-715-6396

of 300+ people. It is inconceivable that Attorneys Peter Vogel, Robert Bragalone and Soña Garcia cannot understand the English words and implication of Disciplinary Rule 1.12.

9. These attorneys must demonstrate that through a valid action of the entire SIM Board that they or their firms were engaged to represent SIM Dallas in this dispute – dating back to March 2016, if they can. On the merits of this motion, the court must further determine “what authorized people” picked the law firms of Gardere and Gordon Rees to represent the interests of the organization. *In Re Salazar, Id.* at 286. (the trial court abused its discretion in not determining which faction of the corporation authorized the attorney to represent them).

10. The SIM Dallas bylaws hold:

The Executive Committee shall serve as the Board of Directors of the Chapter and shall be the governing authority of the Chapter. The property, business and affairs of the Chapter shall be managed by the Executive Committee. The Executive Committee may exercise all such powers of the Chapter as are given by law, or by these by-laws directed or required to be exercised by the Executive Committee.

The Executive Committee, in furtherance but not in limitation of its powers, shall have the power to:

1. Represent the members of the Chapter for all matters internal and external.
2. Establish the policies and practices of the Chapter.
3. Approve board arrangements for all activities.

SIM Dallas bylaws, Article V, § 2.

11. Plaintiff asks the court, upon an insufficient answer to this motion, cite Attorneys Peter Vogel, Robert Bragalone, and Soña Garcia to appear and show their authority to defend this lawsuit.

---

### MOTION TO DISQUALIFY ATTORNEYS

12. The exercise for Attorney Vogel, Bragalone and Garcia to show their authority is in some respects moot, because even if they could show some authorization to represent SIM Dallas and its members, all three attorneys, should be removed as attorneys as:

- a. Vogel should be removed because 1) he is a SIM Dallas member with a personal interest in the outcome of the lawsuit, 2) he has represented the plaintiff before, 3) him earning money from SIM Dallas *for unreasonable purposes* causes him to violate the prohibition that members cannot receive a monetary benefit from the corporation. In no way are the in excess of \$200,000+ he’s claimed in owed fees by SIM Dallas reasonable – an *ultra vires* act for him to claim and enjoy.
- b. Vogel should be removed for his propensity to simply lie to the court and to 3<sup>rd</sup> parties to obtain relief for his clients.

- c. All three attorneys have committed torts against the plaintiff, as agents for SIM Dallas, making themselves fact witnesses, thus prohibiting themselves from being counsel in litigation where they will be fact witnesses.
- d. Attorney Vogel, Gordon Rees, Bragalone, and Garcia cannot represent SIM Dallas – **and** – the individual defendants, as their interests oppose one another.
- e. Vogel, Garcia, and Bragalone should each be disqualified for their constructive fraud on the court to impede plaintiff's access to the court.
- f. Vogel, Garcia, and Bragalone should each be disqualified for a pattern of knowingly violating court orders, not holding conferences before filing motions, improperly impeding discovery, threatening, bullying, lying, intimidation, filing frivolous pleadings, alleging utterly false law and false facts, filing irrelevant pleadings, and – all with the goal to deny the finding of justice.

**From:** Richardson, Christina [mailto:crichardson@fryarlawfirm.com]  
**Sent:** Friday, November 03, 2017 1:37 PM  
**To:** Peter Beasley  
**Subject:** Re: An offer amount - are you serious!

I'm not speaking to Bob Bragalone. He's a bully and he's attempting to bully me now. He won't talk to Eric and he won't talk to me on the phone.



Christina Richardson  
 Fryar Law Firm, P.C.  
 912 Prairie, Suite 100  
 Houston, Texas 77002-3145  
 Direct: [281.715.6396 x107](tel:281.715.6396)

### **The Standard for Attorney Disqualification**

13. The Supreme Court has directed Texas courts to look to the Texas Disciplinary Rules of Professional Conduct, (Tex. Disciplinary R. Prof. Conduct, (2016) reprinted in Tex. Govt Code Ann., tit. 2, subtit. G, app., hereinafter “Disciplinary Rule”) to decide disqualification issues; however the disciplinary rules are merely guidelines—not necessarily controlling standards—for such motions. *In re Seven-O Corp.*, *Id.* at 388. The burden is on the movant to establish with

specificity a violation, in most cases a violation of one or more disciplinary rules. *Id.*; *Spears v. Fourth Court of Appeals*, 797 S.W.2d 654, 656 (Tex.1990).

14. Further, it is well settled that a party seeking to disqualify the opponent's attorney for violation of an ethical rule must demonstrate that such violations result in actual prejudice to the moving party. *Moel v. Sandlin*, 571 S.W.2d 567, 571 (Tex.Civ.App. 1978).

#### **Violation of Rule 3.08 Prohibiting a Lawyer as Witness**

15. Peter Vogel, Robert Bragalone, Soña Garcia made themselves fact witnesses by holding and attending a *secret* meeting of the entire SIM Dallas Board in Peter Vogel's office, on **April 4, 2016**, in direct violation of a valid Temporary Restraining Order – without telling or inviting Peter Beasley, which at the time he was an undisputed member of SIM Dallas and its Executive Committee. EXHIBIT B.

16. Robert Bragalone made himself a fact witness on **May 8, 2016**, by his bald-faced, completely unprofessional, threatening assault on Beasley's attorney, Jim Davis, with the underlying tort of defamation to interfere with Beasley's contract for legal representation. Bragalone shows his intent of intimidation in saying,

**“It is frankly in your client's best interest to dismiss his claims and walk away. A dispositive motion granted will trigger a Rule 11 Motion for Sanctions, which puts both you and your client at risk. We look forward to receiving your notice of dismissal.”**

17. Beasley has sued SIM Dallas on this tortuous interference, where Robert Bragalone will be a witness to admit his numerous, completely false statements against Beasley.

18. Robert Bragalone made himself a fact witness on **October 25, 2016**, by his brazen, completely unprofessional, threatening assault on Beasley's attorney, Kevin Wiggins with the underlying tort of defamation to interfere with Beasley's contract for legal representation. Bragalone shows his intent of intimidation in saying,

**“It is frankly in your client's best interest to dismiss his claims and walk away. A dispositive motion granted will trigger a Rule 13 Motion for Sanctions, which puts both you and your client at risk. We look forward to receiving your notice of dismissal.”**

19. Beasley has sued SIM Dallas on this tortuous interference, where Robert Bragalone will be a witness to admit his numerous, completely false statements against Beasley.

20. Soña Garcia made herself a fact witness on **December 29, 2016**, by her audacious, completely unprofessional, threatening assault on Beasley's attorney, Dan Jones, with the underlying tort of defamation to interfere with Beasley's contract for legal representation. Garcia shows her intent of intimidation in saying,

**"His claims should be dismissed immediately. However, assuming he refuses to do so, please explain to Mr. Beasley that a dispositive motion granted in my clients' favor will trigger a Rule 13 Motion for Sanctions against him and all of his former counsel."**

21. Beasley has sued SIM Dallas on this tortious interference, where Soña Garcia will be a witness to admit her numerous, completely false statements against Beasley.

22. Peter Vogel made himself a fact witness on **December 30, 2016**, by writing completely false, defamatory statements against Peter Beasley, with the express intent to distribute them to non-privileged 3<sup>rd</sup> parties, to discredit the plaintiff and intimidate 3<sup>rd</sup> parties, and the plaintiff's ability to obtain witness statements, violating the discovery process. As an example, he falsely states, "any attempt by Mr. Beasley to contact SIM DFW Members violates the Texas Rules of Civil Procedure that preclude him from contacting SIM DFW Members without approval of the SIM DFW attorney."

23. Beasley has sued SIM Dallas on this defamation, where Peter Vogel will be a witness to admit his numerous, completely false statements against Beasley.

24. Imbedded in all these attorney's false statements are disciplinary rule violations of threatening and intimidating 3<sup>rd</sup> parties, interfering with legitimate discovery, violating court orders and an unfettered pattern by these attorneys to lie – all violations of the Disciplinary Rules.

25. Rule 3.08 prohibits lawyers from continuing in a matter where their testimony will be adverse to their clients, and it creates an unresolvable conflict for the trier of fact, where the role of advocate and witness is too confusing.

#### **Violation of Rule 1.12 Organization as a Client**

26. The rules are crystal clear – none of these lawyers represent the 300+ individual SIM Dallas members, except potentially Burns and O'Bryan.

27. A lawyer employed or retained by an organization represents the entity. DISCIPLINARY RULE 1.12. This rule reflects established law that "[i]n a corporation's affairs, there is but one client — the corporation. *In re Marketing Investors Corp.*, 80 S.W.3d 44, 49 (Tex. App.-Dallas 1998).

28. Vogel's, Bragalone's, and Garcia's **utterly false** presentation of the law and their insistence that they represent the individual SIM Dallas members is contemptable, and is a calculated approach to defame plaintiff, and undermine his ability to obtain witness statements to prove-up his mounting damages.

**Violation of Rule 1.06 Conflict of Interest – Representing Burns, O'Bryan and SIM**

29. Even if the Gordon Rees attorneys could show some authority to represent Burns and O'Bryan, they should be disqualified from doing so.

30. Plaintiff concedes "most derivative actions are a normal incident of an organization's affairs, to be defended by the organization's lawyer like any other suit. However, if the claim involves serious charges of wrongdoing by those in control of the organization, a conflict may arise between the lawyer's duty to the organization and the lawyer's relationship with those managing or controlling its affairs". Disciplinary Rule § 1.12 Comment 11.

31. Gordon Rees attorneys contend they represent SIM Dallas. But since the derivative suit involves serious wrongdoing by those in control of the organization (Burns and O'Bryan), an impermissible adverse conflict arises if the Gordon Rees attorneys were allowed to also represent Burns and O'Bryan.

32. Rule 1.06 has a **mandatory bar** that a law firm NOT represent adverse parties, in the same litigation. Parties are "actually directly adverse" when "the lawyer's ... ability or willingness to consider, recommend, or carry out a course of action will be or is reasonably likely to be adversely affected by representing both clients." *In re Seven-O Corp., Id.* at 390.

33. The serious wrongdoing by Burns and O'Bryan managing the corporation's affairs include:

- a. Authorizing a non-profit organization to spend over \$500,000 in legal defense of their own bad acts, on an underlying dispute that could have easily be resolved without litigation.
- b. Refusing court orders and every request to attempt settling the conflict.
- c. Using a member of SIM Dallas to act as an "attorney for the organization".
- d. Retaining counsel, without board approval.

- e. **Accepting horribly bad legal advice, an act of gross mismanagement** – for which Beasley and SIM Dallas are locked in an epic battle, so the attorneys, Burns, and O’Bryan can hide their individual wrongdoings.
- f. Failing to institute a sub-committee or investigation body to address the allegations against Peter Beasley, thus illegally attempting to have the Executive Committee serve as both “prosecutor” and “judge”.
- g. Holding secret meetings of the board in violation of a direct court order.
- h. Overstepping the due process protections provided in the bylaws by attempting to use a provision to expel members to violate the limitation that officers cannot remove board members elected by the members.
- i. Retaliation – concocting completely false charges against Peter Beasley.
- j. Tortuously defaming Peter Beasley.
- k. Leading the corporation to violate valid business contracts with third parties.
- l. Operating the corporation with an illegally constituted board.
- m. Allowing non-voting members of the board to vote.
- n. Holding board meetings and conducting business without a quorum.
- o. Holding board meetings without proper notice.
- p. Holding board meetings virtually, by electronic means, without the notice required under state law.
- q. Intimidating, coercing, and improperly influencing the corporation’s executive committee (the board) and the corporation’s members.
- r. Lying to members.
- s. Giving away member’s assets to non-members.
- t. Wasting member’s assets.
- u. Burns and O’Bryan using the corporation’s assets to defend an individual lawsuit against him by a third party.
- v. Discriminating against minorities from joining SIM Dallas.

34. Clearly, the Gordon Rees attorneys cannot represent SIM Dallas, in the best interest of the organization, and also defend Burns and O'Bryan against such serious allegations.

35. Gordon Rees' violation of Disciplinary Rule 1.06 prejudice Plaintiff, by:

- a. Keeping the litigation going – this dispute would have been settled months ago without the unethical conflict of interest by Gordon Rees.
- b. Eliminating plaintiff's ability to settle with one party (i.e. SIM Dallas) when such settlement works a hardship on Gordon Rees' other represented parties (Burns & O'Bryan).
- c. Interfering with plaintiff's ability to prove liability with one party (Burns) when such liability would prejudice Gordon Rees' other client.
- d. Increasing plaintiff's cost of litigation where Gordon Rees may not be able to "agree by conference" on issues that are inconsequential to one party, but harms one of the other represented parties.

---

**Violation of Rule 1.06 Conflict of Interest – Attorney Peter Vogel**

36. Once the Honorable Judge Maricella Moore took the bench for the first time, Attorney Peter Vogel immediately took advantage of her with his stature, his years in service as past president of the Dallas Bar Association, and his on-line 90-page biography – **along with his appetite and willingness to lie to a district judge.**

**"Your Honor -- he sued the entire chapter. He didn't sue the board. The title of the case is Society of Information Management Dallas Area Chapter. He sued every single member."** Hearing, February, 13, 2017.

**"Your Honor, and it's a social club. It's like a PTA. This [is] a PTA squabble about someone who violated the rules. That's what this is. And here's trying to harass our members, and it's not fair."** Hearing, February, 13, 2017.

**"These claims were frivolous on "Day 1" when they were accompanied by a whistleblower Sarbanes-Oxley claim and subsequently removed to federal court. They were frivolous when Peter Beasley finally nonsuited all his and the Intervenor's claims on October 5, 2017."** October 18, 2017.



**“Peter Beasley epitomizes the definition of a vexatious litigant”.**

February 2, 2017; November 15, 2017.

37. Attorney Peter Vogel’s lies about a PTA squabble are so far from the truth – with costs and damages approaching \$3,000,000. Much like so many of his pleadings, false legal arguments, and slanderous / libelous statements, Attorney Peter Vogel knows the only method he and his client can win is by him lying and impeding the finding of truth and justice.

**Personal Interest in the Case**

38. Attorney Peter Vogel has a personal interest in the proceedings!

39. Attorney Peter Vogel willingly admits to being a 17+ year member of SIM Dallas – which creates an impermissible conflict of interest to him also serving as litigation counsel. He gets employment, professional speaking, and professional networking benefits from his membership in SIM Dallas, and therefore he has a personal interest in the outcome of this litigation.

40. Attorney Peter Vogel attempts to appear as an advocate, and an officer of the court, in a proceeding where he has a personal interest, something he’s prohibited from doing. Disciplinary Rules § 1.06 *see* Note 4.

Attorney Peter Vogel is Committing Ultra-Vires Acts against the Society

41. Attorney Peter Vogel has an interest in these legal proceedings – him being member, and also being a person receiving benefits from the corporation. Peter Vogel is arguably the first member in the 34+ year history of the organization to find a near-perfect scheme to **loot the assets of the corporation.**

42. Texas law defines ultra-vires acts of the corporation, Tex. Bus. Org. Code § 20.002, and mandates a prohibition that no member of the corporation accrue any personal benefit, Tex. Bus. Org. Code § 22.053, except the corporation may “pay compensation in ***a reasonable amount*** to the members, directors, or officers of the corporation for services provided”. Tex. Bus. Org. Code § 22.054.

43. Attorney Peter Vogel recommending a course of action, with the on-going 5<sup>th</sup> District Court of appeals case, to rack-up over \$500,000 to \$600,000 in attorney fees from a small, non-profit organization, payable in large part to him, **is in no part reasonable**. To succeed in his scheme to rob the assets of the corporation, all Attorney Peter Vogel has to do is testify, either truthfully or falsely, and have a judge hold his fees as *reasonable* and all of the money he takes from SIM Dallas would be his to keep.

44. Plaintiff is entitled to cross-examine Attorney Peter Vogel on whether he has charged, been paid, or whether SIM Dallas is even obligated to pay the \$206,167.00 he testified his firm has earned. Further, is the claimed representation with Gardere Wynn Sewell LLC, or with Peter Vogel individually?

45. Also disrespectful is Attorney Peter Vogel's rant that the entire lawsuit was frivolous on Day 1, but then to fail and seek settlement or dismiss the lawsuit on Day 2. Attorney Peter Vogel is committing ultra-vires act against SIM Dallas by "case running", for which he should become expelled from SIM Dallas, disqualified to represent SIM Dallas in these proceedings, and should be referred to the State Bar for disciplinary proceedings.

Attorney Peter Vogel Has an Interest to not be Expelled Himself as a SIM Member

46. Attorney Peter Vogel is abundantly aware that Peter Beasley, as the elected Membership Chair for SIM Dallas has the absolute authority to deny membership and to make recommendations of which people the society wants to rid themselves of, like Peter Vogel.

47. The SIM bylaws hold the duties of the Membership Chair to recommend candidates for membership and to recommend existing members for continuing membership.

48. **JOB ONE** upon Peter Beasley's successful reinstatement to his position as Membership Chair will be to lead his Membership Committee to draft a resolution to expel Peter Vogel for how he, not Peter Beasley, has all but destroyed the nationwide reputation of SIM Dallas. It's for this reason, Attorney Peter Vogel's having a personal interest on the merits of the case, that he should have declined representation in the first place, and for which he now must be disqualified.

**Previously Representing Plaintiff Before**

49. Before this conflict began, at multiple times in 2015 and 2016, Attorney Peter Vogel individually met with and advised Plaintiff, Peter Beasley, on his personal responsibilities as a director for SIM.

50. As such, Peter Vogel has served before as an attorney for Peter Beasley, and therefore is disqualified from representing SIM Dallas as litigation counsel against his prior client, Beasley.

**Attorney Peter Vogel Willingly Violates his Professional Responsibilities**

51. Simply open the Texas Disciplinary Rules of Professional Conduct and it easy to find violations by Attorney Peter Vogel in nearly every one of the nine chapters. There are so many it's hard to tell which of his violations is the most egregious.

- a. Disciplinary Rule § 1.06 – accepting representation as an advocate in a proceeding he has a personal interest, where Attorney Peter Vogel seeks not to become expelled from SIM if he allows Peter Beasley to maintain his Membership Chair, and that Attorney Peter Vogel has a vested interest in the financial resources of the organization in which he's a member.
- b. Disciplinary Rule § 1.06(a) Attorney Peter Vogel represented opposing parties to the same litigation, on April 4, 2016, holding a secret meeting of the SIM Dallas Board, but knowingly excluding Peter Beasley, a member of the full board Attorney Peter Vogel claims he actually represents<sup>1</sup>.
- c. Disciplinary Rule § 1.12(a) A lawyer employed or retained by an organization represents the entity, but Attorney Peter Vogel attempts and boasts that he represents the entity, AND its members.
- d. Disciplinary Rule § 7.03 (a)(3) – December 31, 2016, falsely telling the SIM members that it is a violation of the Texas Rules of Civil Procedure to talk with plaintiff about the lawsuit.
- e. Disciplinary Rule § 7.03 (a)(1) – December 31, 2016, intimidating SIM members to not communicate with plaintiff to interfere with plaintiff's ability to conduct discovery.
- f. Disciplinary Rule § 4.01 (a) – lying to SIM members about plaintiff on December 31, 2016.
- g. Disciplinary Rule § 3.04 – obstructing plaintiff's access to discovery.
- h. Disciplinary Rule § 3.04(c)(1) – habitually offering irrelevant evidence to the court.
- i. Disciplinary Rule § 3.04(c)(3) – him habitually testifying himself about plaintiff's motives in filing the lawsuit, and falsely stating the justness of the cause.
- j. Disciplinary Rule § 8.04(a)(9) – barratry, needlessly running-up the cost of litigation.

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<sup>1</sup> *In re Salazar*, 315 S.W.3d 279, 286 (Tex. App.-Fort Worth 2010, orig. proceeding) ("Thus, a lawyer may not be hired to represent a corporation by one of two factions in the organization against the other faction.").

- k. Disciplinary Rule § 7.02(a)(1) – material misrepresentation that Attorney Peter Vogel represents the individual SIM members. Material misrepresentation that it is a violation of the rules of procedure for plaintiff to contact the members.
- l. Disciplinary Rule § 3.04(d) – knowingly violating the March 29, 2016, Temporary Restraining Order of this court by holding a secret meeting of the SIM Board in his office to discuss the grounds of the forthcoming expulsion proceedings.

### **Attorney Peter Vogel Files Frivolous Pleadings**

52. Attorney Peter Vogel prepared and filed his utterly frivolous, failed Motion for Sanctions, to sanction Dan Jones, Jim Davis, Eric Fryar, Christina Richardson, Netwatch Solutions and Peter Beasley in the Dallas lawsuit.

53. Attorney Peter Vogel prepared and filed his utterly frivolous, failed Declaratory Judgment Motion to find Beasley to be vexatious in the Dallas lawsuit.

### **Disqualifying These Attorneys Works no Hardship**

54. Defendants will not be prejudiced by the disqualification of Attorneys Bob Bragalone, Soña Garcia, and Peter Vogel as this is a new lawsuit and **elimination of unethical attorneys will help SIM Dallas** end the conflict which the lawyers themselves keep going (e.g. Garcia not agreeing to limited expedited discovery on the venue issue they caused, which they will be unable to win, but simultaneously argue to shorten the time to hear the motion to challenge venue.)

### **MOTION TO ORDER THE PARTIES TO MEDIATION**

55. Not once has SIM Dallas and the individual defendants agreed to mediation.

56. Before this affair went to court, March 24, 2016, Plaintiff asked to meet and resolve the conflict – without litigation. But SIM Dallas refused.

57. Board member Kevin Christ sought to help resolve the dispute in April 2016, but Burns and O'Bryan refused to allow the parties to attempt settlement.

58. The Dallas District Court ordered the parties to attend mediation by October 4, 2017 – but mediation never was scheduled or occurred.

59. Plaintiff asks the court to order the parties to mediation – to be attended by a SIM Dallas Executive Committee representative other than O'Bryan and Burns (and NOT Bouldin, Wachel, Brown, Joan Holman, or Bender leaving numerous remaining members of the board to help resolve

the dispute such as Blake Holman, Kevin Christ, Kevin Dunn, Barbie Barta, Juan Arias, Andrew Jackson, Ulrike Schultze, Paola Saibene, Rusty Kensington, Mark Reynolds, Dan Hayes, JD Stotts, Mark Urbis, Bob Tenley, and Dohrman Wintermute).

WHEREFORE: Plaintiff requests the court order cite Attorneys Bragalone, Garcia and Vogel to appear and show their authority, dating back to April 1, 2016, to represent SIM Dallas and O'Bryan; and dating back to January 2017, their authority to represent Burns; and after hearing order the disqualifications of Attorneys Peter Vogel, Robert Bragalone, Soña Garcia, and the Gordon Rees law firm in these proceedings; find their acts to be false or improper in representing people who they do not or cannot; find their false or improper acts to be a contempt made in the presence of this court; and prescribe an appropriate penalty; and refer these attorneys to the State Bar and District Attorney for prosecution.

Respectfully submitted,

/s/Peter Beasley

Peter Beasley, pro se

P.O. Box 831359

Richardson, TX 75083-1359

(972) 365-1170

[pbeasley@netwatchsolutions.com](mailto:pbeasley@netwatchsolutions.com)

#### Certificate of Conference

On January 29, 2018, counsel for defendants indicated they are opposed to the motion and a hearing is therefore required.

/s/Peter Beasley

Peter Beasley

#### Certificate of Service

I hereby certify that on the 15<sup>th</sup> day of April 2018, a true copy of the foregoing instrument was served on opposing counsel for the defendants by electronic means and the electronic transmissions were reported as complete.

/s/Peter Beasley

Peter Beasley

§

§

## DECLARATION OF PETER BEASLEY

My first, middle, and last name is Peter Morell Beasley, my date of birth is September 20, 1958, and my address is 12915 Fall Manor, Dallas, Texas, 75243, United States. I declare under penalty of perjury that the foregoing statements are true and correct.

1. My name is Peter Beasley. I am over the age of twenty-one years, of sound mind, have never been convicted of any felony offense and I am fully competent and authorized to make this affidavit. I have personal knowledge of the facts stated herein and in the Motion to Disqualify and Show Authority due to my personal involvement in the events and occurrences set forth, or are being made on information and belief. All of the facts stated herein are true.

2. I believe Attorney Peter Vogel, Soña Garcia and Robert Bragalone are defending this lawsuit without authority of the SIM Dallas Executive Committee or without the permission of the 300+ individual corporate members.

3. Being on the Executive Committee, I have no knowledge that there was ever a motion or resolution that authorized SIM Dallas to engage the services of Gardere, of Attorney Peter Vogel, or the lawyers of Gordon Rees. Being a voting member of the Executive Committee, such an authorization would have been called to my attention, or there would have been authorization in the bylaws, or listed in some official documents of the organization. There has been no such document that I am aware of.

4. My understanding of the SIM Dallas bylaws indicates that no one, not even the president or officers, have the individual authority to execute contracts, except as authorized by the entire Executive Committee.

Executed in Dallas, State of Texas, on the 15<sup>th</sup> day of August, 2018.

Rob Bursley  
Declarant

# Exhibit E

CAUSE NO. DC-18-05278

PETER BEASLEY	§	IN THE 191 <sup>ST</sup> JUDICIAL
	§	
<i>Plaintiff</i>	§	
	§	
v.	§	DISTRICT COURT OF
	§	
SOCIETY OF INFORMATION	§	
MANAGEMENT, DALLAS AREA	§	
CHAPTER; JANIS O'BRYAN; and	§	
NELLSON BURNS	§	
	§	
<i>Defendants</i>	§	DALLAS COUNTY, TEXAS

**MOTION TO DISQUALIFY COUNSEL PETER VOGEL; MOTION TO SHOW  
AUTHORITY**

Plaintiff, Peter Beasley, ("Beasley"), pursuant to the Texas Rules of Disciplinary Conduct files this motion to disqualify opposing counsel Peter Vogel, and in support states:

1. Plaintiff has been unsuccessful in getting this motion heard since February 5, 2018. Mr. Vogel first identified himself as being involved in this conflict between the parties beginning March 21, 2016 – the start of his violations under the State Bar Act.

2. Beasley has set this motion for hearing five times before, but has been unable to get a hearing. Instead of having the hearing on the original set motion (**EXHIBIT A**) before Judge Roach in Collin County, Judge Roach transferred the case to another county and judge (Goldstein). Judge Goldstein transferred the case to Judge Moore, who was recused.

3. This motion was set for hearing before this court on August 22, 2018, September 19, 2018, and then September 20, 2018. But the court ruled the Vexatious Litigant issue needed to be decided first.

4. Whether this case is Reconsidered and made Active, or dismissed and appealed, **this motion is timely.**



5. Further, April 26, 2019, the Texas Supreme Court has asked Mr. Vogel to respond to Plaintiff's petition pending in that court. **This motion is relevant and timely.**

6. Mr. Vogel baldly violates Supreme Court rules and district court orders and advances meritless claims – wasting valuable trial and appellate judicial resources, and should be disqualified from appearing further.

### **Pattern of Disciplinary Violations**

7. Peter Vogel has provided legal advice to Peter Beasley years and months before this conflict began, thereby serving as prior attorney for the opposing party – a conflict of interest, mandating his withdrawal. This conflict was called to Mr. Vogel's attention on February 27, **2017**, but he has refused to withdraw – necessitating this hearing.

8. Peter Vogel falsely represented March 21, 2016 that he had been retained by SIM DFW, but his statements were not true.

**From:** Vogel, Peter [mailto:pvogel@gardere.com]

**Sent:** Monday, March 21, 2016 4:43 PM

**To:** pbeasley@netwatchsolutions.com

**Subject:** Meeting on Thursday, March 24 from 8-10am

RE: *Peter Beasley v. Society of Information Management, Dallas Area Chapter*, 162<sup>nd</sup> District Court, Dallas County Texas, Cause No. DC-16-03141 (the "Lawsuit")  
Peter,

The **DFW SIM Chapter retained me** to represent them in the Lawsuit you filed on March 17, 2016, and I hope you can come to my office to meet with Chapter leadership from 8-10am this Thursday, March 24, 2016 so that we can attempt to resolve the issues in dispute.

Please confirm your availability as soon as practical, thanks.

I am hopeful that we can settle the Lawsuit on Thursday.

Peter

**Peter S. Vogel**

Partner

Rather than holding the one scheduled meeting between the parties to resolve the dispute, Mr. Vogel cancelled the meeting – launching the parties into years of litigation (into year 4 now), netting Mr. Vogel hundreds of thousands of dollars.

9. Peter Vogel, him being a long-time member of SIM-DFW, has a personal interest in the litigation, and should be disqualified.

10. Peter Vogel falsely represents that he is the attorney for Janis O'Bryan and Nellson Burns, which he is not, and should be disqualified.

11. Peter Vogel falsely represents that he represents all 300+ members of SIM-DFW (including himself and the plaintiff), which is not true, and he should be disqualified.

12. In 2017, Peter Vogel authored and presented a wholly groundless Declaratory Judgment claim against Plaintiff, for which Peter Vogel should be sanctioned and disqualified.

13. Peter Vogel has been noticed to appear to Show his Authority, but he refuses to.

**EXHIBIT A.**

14. Peter Vogel, him falsely masquerading as retained counsel, committed a tort of defamation on December 31, 2017, and tampered with Plaintiff's ability to obtain witness statements, for which he should be sanctioned and disqualified.

15. Peter Vogel continues to claim he represents people his does not and should be barred from continuing to do so.

**WHEREFORE, PREMISES CONSIDERED,** Plaintiff hereby moves the Court for an order disqualifying Peter Vogel from appearing further as litigation counsel, in the trial court and in the appeals between these parties.

Respectfully submitted,

**PETER BEASLEY**

/s/ Peter Beasley  
Peter Beasley, pro se  
*pbeasley@netwatchsolutions.com*  
P.O. Box 831359  
Richardson, TX 75083-1359  
(972) 365-1170

### **CERTIFICATE OF CONFERENCE**

Plaintiff has held conferences with opposing counsel on November 15, 2017, and January 29, 2018, and Defendants are opposed to the motion, necessitating a hearing.

/s/ Peter Beasley  
Peter Beasley

### **CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this pleading has been served upon all counsel listed below via e-service and facsimile on May 14, 2019:

Charles "Chad" Baruch  
Johnston Tobey Baruch, PC  
Post Office Box 215  
Addison, Texas 75001-0215  
[chad@jtlaw.com](mailto:chad@jtlaw.com)

Daena G. Ramsey  
Andrew S. Gardner  
2000 E. Lamar Blvd., Suite 430  
Arlington, TX 76006  
[agardner@vrlaw.net](mailto:agardner@vrlaw.net)  
[dramsey@vrlaw.net](mailto:dramsey@vrlaw.net)

Robert A. Bragalone  
Sona J. Garcia  
Gordon & Rees  
2200 Ross Avenue, Suite 4100 West  
Dallas, Texas 75201-2708  
[BBragalone@grsm.com](mailto:BBragalone@grsm.com)  
[SJGarcia@grsm.com](mailto:SJGarcia@grsm.com)

Peter Vogel  
Foley Gardere  
Foley & Lardner, L.L.P.  
2021 McKinney Ave., Suite 1600  
Dallas, Texas 75201  
[PVogel@Foley.com](mailto:PVogel@Foley.com)

/s/ Peter Beasley  
Peter Beasley

**Cause No. 417-05741-2017**

PETER BEASLEY,	§	IN THE DISTRICT COURT OF
	§	
	§	
v.	§	COLLIN COUNTY, TEXAS
SOCIETY OF INFORMATION	§	
MANAGEMENT, DALLAS AREA	§	
CHAPTER, JANIS O'BRYAN, NELLSON	§	417 <sup>th</sup> JUDICIAL DISTRICT
BURNS	§	

**VERIFIED RULE 12 MOTION TO SHOW AUTHORITY AND MOTION TO  
DISQUALIFY ATTORNEY PETER VOGEL**

NOW COMES, Plaintiff, Peter Beasley, *pro se*, and in support of this Verified Rule 12 Motion to Show Authority, and Motion to Disqualify Attorney Peter Vogel, states the following:

1. Defendants filed a joint Motion to Transfer Venue on January 16, 2018, wherein they list Attorney Peter Vogel as Attorneys for SIM-DFW.

2. Attorney Peter Vogel is a member of SIM Dallas and has professed he 1) represents all the members of SIM Dallas, 2) represents the organization (i.e. its board), 3) represents himself as a member, 4) has represented the plaintiff, Peter Beasley, and 5) has provided legal advice to plaintiff over the ten years they've known each other.

3. **It is inconceivable that Attorney Peter Vogel does not understand** that he cannot represent or even claim to represent the individual SIM members, as he has done for over a year.

**From:** Fryar, Eric [mailto:eric@fryarlawfirm.com]  
**Sent:** Friday, August 18, 2017 3:42 PM  
**To:** Vogel, Peter  
**Subject:** Re: FW: Beasley v. SIM

Peter,

Your statement that Mr. Beasley "sued all 300+ members" of SIM is truly astonishing. Try as I might, I cannot bring myself to believe that you do not understand the legal distinction between a corporation and its shareholders. I had thought that your efforts to have the claims against Burns and O'Bryan stricken served some purpose, only now to find out that you still consider them to be parties. As Mel Gibson's character noted in the Patriot, pride is a weakness, and I have always had a grudging respect for other lawyers who are willing to say extraordinarily stupid things in the zealous advocacy of their clients. Me? Just don't have that kind of self-assurance.

Eric

**FRYAR  LAW FIRM P.C.**

ERIC FRYAR  
FRYAR LAW FIRM PC  
912 Prairie STE 100  
Houston, Texas 77002  
Tel. 281-715-6396  
FAX 281-605-1888  
[eric@fryarlawfirm.com](mailto:eric@fryarlawfirm.com)

4. Although neither of Peter Beasley's Dallas Litigation law firms filed motions to disqualify Attorney Peter Vogel, they argued:

*THE COURT:* Anything else?

*MR. DAVIS:* Your Honor, of course we're going to comply with the Court's directive. But there's 250 to 300 members who pay dues to this organization. They are not involved in the decisions here. They are not -

*MR. VOGEL:* They've been sued, though.

*MR. DAVIS:* Would you please let me talk.

Basically, this is a corporate entity just like any other corporate entity. I can bring you replete authority that says that even if you're sewing a corporation, you can go talk to all of the employees as long as they're not involved in the matters in play in the case or they're part of the control group of the company.

5. As supported by declaration, I, Peter Beasley, have known Peter Vogel for over 10 years. He has been a colleague, a person who I looked up to in the Dallas business community; someone I would have regarded as a friend. I have sought legal advice from Attorney Peter Vogel before, and based on his own admissions, he has been my attorney before.

**Motion to Show Authority – As Approved by the SIM Executive Committee**

6. **Attorney Peter Vogel is a member of SIM Dallas**, and with him also being an attorney, he may likely not be a retained, attorney on behalf of the organization at all, but is merely one of its members who is representing that he has the benefit of an attorney-client relationship which affords him the ability to appear before this court.

7. As verified, we ask that Attorney Peter Vogel show his authority, to appear before this tribunal as the legal counsel for the Society of Information Management, and for all 300+ individuals, as he has claimed before, if he can. At the hearing on the motion, the burden of proof is on the

challenged attorney to show his authority to prosecute or defend the suit. TEX.R. CIV. P. 12; *Boudreau v. Fed. Trust Bank*, 115 S.W.3d 740, 741 (Tex.App.-Dallas 2003, pet. denied).

8. Further, the bylaws of SIM Dallas do not authorize an officer or board member to retain counsel on behalf of the organization, and certainly do not authorize an officer or board member to retain counsel on behalf of 300+ people who are uninvolved and disinterested in these proceedings. Clearly, the SIM Dallas board is incompetent to aver that they authorized Attorney Peter Vogel to represent the individual interests of 300+ people.

9. Attorney Peter Vogel must demonstrate that through a valid action of the entire SIM Board that he and his firm were engaged to represent SIM Dallas in this dispute. On the merits of this motion, the court must further determine what authorized people picked SIM member Attorney Peter Vogel to represent the interests of the organization. *In Re Salazar, Id.* at 286. (the trial court abused its discretion in not determining which faction of the corporation authorized the attorney to represent them). The SIM Dallas bylaws hold:

The Executive Committee shall serve as the Board of Directors of the Chapter and shall be the governing authority of the Chapter. The property, business and affairs of the Chapter shall be managed by the Executive Committee. The Executive Committee may exercise all such powers of the Chapter as are given by law, or by these by-laws directed or required to be exercised by the Executive Committee.

The Executive Committee, in furtherance but not in limitation of its powers, shall have the power to:

1. Represent the members of the Chapter for all matters internal and external.
2. Establish the policies and practices of the Chapter.
3. Approve board arrangements for all activities.

SIM Dallas bylaws, Article V, § 2. (Exhibit H).

10. Plaintiff asks the court, upon an insufficient answer to this motion, cite Attorney Peter Vogel to appear and show his authority to defend this lawsuit.

### **The Standard for Attorney Disqualification**

11. The exercise for Attorney Peter Vogel to show his authority is in some respects moot, because even if he could show some authorization to represent SIM Dallas, Attorney Peter Vogel, would be required to decline representation, assuming he adheres to his professional responsibility as a Texas attorney, as 1) he has a personal interest in the case, 2) the prohibition of ultra-vires acts by him against the corporation he claims to represent, and 3) he has represented one of the adverse parties, the plaintiff, before.

12. If Attorney Peter Vogel maintains that he has legitimate authority by virtue of 1) an attorney-client agreement **AND** 2) some action by the entire Executive Committee, after hearing and upon his failure to show his authority, Attorney Peter Vogel should be disqualified.

13. The Supreme Court has directed Texas courts to look to the Texas Disciplinary Rules of Professional Conduct, (Tex. Disciplinary R. Prof. Conduct, (2016) reprinted in Tex. Govt Code Ann., tit. 2, subtit. G, app., hereinafter "Disciplinary Rule") to decide disqualification issues; however the disciplinary rules are merely guidelines not necessarily controlling standards for such motions. *In re Seven-O Corp.*, 289 S.W.3d 384, 388 (Tex.App.-Waco 2009, orig. proceeding). The burden is on the movant to establish with specificity a violation, in most cases a violation of one or more disciplinary rules. *Id.*; *Spears v. Fourth Court of Appeals*, 797 S.W.2d 654, 656 (Tex.1990).

14. Further, it is well settled that a party seeking to disqualify the opponent's attorney for violation of an ethical rule must demonstrate that such violations result in actual prejudice to the moving party. *Moel v. Sandlin*, 571 S.W.2d 567, 571 (Tex.Civ.App. 1978).

15. With Attorney Peter Vogel being a 15+ year member in SIM, and the former legal advisor to plaintiff, Attorney Peter Vogel has caused plaintiff harm by taking advantage of his knowledge of plaintiff's character, and likely divulging the confidences placed in him, with him being the former attorney for the plaintiff.

16. Due to the conflicting interest Attorney Peter Vogel has to allowing plaintiff to be reinstated to SIM Dallas, namely, the fact that Beasley can seek the expulsion of Vogel, Attorney Peter Vogel harms Beasley in his attempts to settle and resolve the underlying conflict.

#### **ARGUMENT AND AUTHORITIES**

17. In completed discovery between the parties, SIM Dallas has produced neither 1) an attorney-client agreement retaining Attorney Peter Vogel or Gardere, Wynn, Sewell, or 2) produced minutes OR a resolution from the SIM Board authorizing Attorney Peter Vogel to represent their interests.

18. Rather than waste everyone's time, in response to this motion. Attorney Peter Vogel should simply withdraw.

19. We are entitled to cross-examine Attorney Peter Vogel on whether he has charged, been paid, or whether SIM Dallas is even obligated to pay the \$206,167.00 he testified his firm has earned. (Exhibit A). Further, is the claimed representation with Gardere Wynn Sewell LLC, or with Peter Vogel individually?

20. Defamation by Attorney Peter Vogel on December 31, 2017, by virtue of his alleged authority as an attorney, caused damage to plaintiff, and to his company, Netwatch Solutions. Attorney Peter Vogel should be disqualified for conspiring with his client to commit a tort against the plaintiff.

21. Attorney Peter Vogel's continued involvement in this litigation, based on his own personal interest in the litigation and his willingness to violate the rules, causes harm to plaintiff.

### **Previously Representing Plaintiff Before**

22. Before this conflict began, at multiple times in 2015 and 2016, Attorney Peter Vogel met with and advised Plaintiff, Peter Beasley, on his personal responsibilities as a director for SIM.

23. As such, Peter Vogel has served before as an attorney for Peter Beasley, and therefore is disqualified from representing SIM Dallas as litigation counsel.

### **Personal Interest in the Case**

24. Attorney Peter Vogel has a personal interest in the proceedings!

25. Attorney Peter Vogel attempts to appear as an advocate, and an officer of the court, in a proceeding where he has a personal interest, something he's prohibited from doing. Disciplinary Rules § 1.06 *see* Note 4. Further, as a member of SIM Dallas, Attorney Peter Vogel has an interest in its affairs, the benefits it offers him, and has an interest in the financial outcome between the parties.

### **Attorney Peter Vogel is Committing Ultra-Vires Acts against the Society**

26. Furthermore, and even more compelling, Attorney Peter Vogel has an interest in these legal proceedings of him being member, and also being a person receiving benefits from the corporation. Peter Vogel is arguably the first member in the 30+ year history of the organization to find a near-perfect scheme to **loot the assets of the corporation**. He has testified under oath that he has *already racked-up \$206,767 of the non-profit's assets*.

27. Texas law defines ultra-vires acts of the corporation, Tex. Bus. Org. Code § 20.002, and mandates a prohibition that no member of the corporation accrue any personal benefit, Tex. Bus. Org. Code § 22.053, except the corporation may "pay compensation in *a reasonable amount* to the members, directors, or officers of the corporation for services provided." Tex. Bus. Org. Code § 22.054.

28. Attorney Peter Vogel recommending a course of action, with the forthcoming appeal, to rack-up over \$500,000 to \$600,000 in attorney fees from a small, non-profit organization, payable in large part to him, **is in no part reasonable**. To succeed in his scheme to rob the assets of the



corporation, all Attorney Peter Vogel has to do is testify, either truthfully or falsely, and have a judge hold his fees as *reasonable* and all of the money he takes from SIM Dallas would be his to keep. Voila!

29. Also disrespectful is Attorney Peter Vogel's rant that the entire lawsuit was frivolous on Day 1, but then to fail and seek settlement or dismiss the lawsuit on Day 2. Attorney Peter Vogel keeping this dispute going by lodging attorney fees against Peter Beasley, without legal authority, is further evidence that Attorney Peter Vogel's fees are unreasonable. Attorney Peter Vogel is committing ultra-vires act against SIM Dallas, for which he should become expelled, disqualified to represent SIM Dallas in these proceedings, and should be referred to the State Bar for disciplinary proceedings.

Attorney Peter Vogel Has an Interest to not be Expelled Himself as a SIM Member

30. Attorney Peter Vogel testified he has been a member of SIM Dallas for years, and he is therefore abundantly aware that Peter Beasley, as the elected Membership Chair for SIM Dallas has the absolute authority to deny membership and to make recommendations of which people the society wants to rid themselves of, like Peter Vogel.

31. The SIM bylaws hold the duties of the Membership Chair to:

The Membership Chair shall be responsible for the identification of prospective members and timely processing of all applicants and shall perform all duties that pertain to the Chair of the Membership Committee and that may be assigned by the Chair and Executive Committee.

SIM bylaws Art. IV § 13. (Exhibit H)

As stated in the DFW Chapter bylaws, during the membership renewal process each November through March, the membership qualifications of current individual members will be verified. The Membership Committee will create a Consent Agenda summary recommendation for all members for recertification, including their membership classification. Any member of the Executive Committee may remove an individual from the Consent Agenda; instead requiring that member's recertification be evaluated individually. The Executive Committee will approve or disapprove the continuance of each membership, either by Consent Agenda approval, by individual consideration, by oral vote, or by silent ballot, as required by the Executive Committee Chair.

SIM bylaws Membership Committee Guidelines. (Exhibit H)

32. Job one upon Peter Beasley's successful reinstatement to his position as Membership Chair will be to lead his Membership Committee to draft a resolution to expel Peter Vogel for how he, not Peter Beasley, has all but destroyed the nationwide reputation of SIM Dallas. It's for this reason,

Attorney Peter Vogel's having a personal interest on the merits of the case, that he should have declined representation in the first place, and for which he now must be disqualified.

### **Misrepresenting the Truth – Abject Lies**

33. Due to his personal interest in this case, or perhaps it's his ego, Attorney Peter Vogel has lost all measure of objectivity in this case and can't help but simply lie and bring-up irrelevant matters (i.e. Plaintiff's divorce from nearly 30 years ago), as an example:

- a. False, misrepresentations and lies filed in a court document, November 15, 2017.
- b. False, sworn misrepresentations and lies filed in a court document, November 3, 2017.
- c. Lack of candor, and false misrepresentation to Judge Moore,

**"Your Honor -- he sued the entire chapter. He didn't sue the board. The title of the case is Society of Information Management Dallas Area Chapter. He sued every single member."** Hearing, February, 13, 2017.

- d. Lack of candor, and false misrepresentation to Judge Moore,

**"Your Honor, and it's a social club. It's like a PTA. This [is] a PTA squabble about someone who violated the rules. That's what this is. And here's trying to harass our members, and it's not fair."** Hearing, February, 13, 2017.

- e. Lack of candor, and false misrepresentation to the Court,

**"These claims were frivolous on "Day 1" when they were accompanied by a whistleblower Sarbanes-Oxley claim and subsequently removed to federal court. They were frivolous when Peter Beasley finally nonsuited all his and the Intervenor's claims on October 5, 2017."** October 18, 2017.

- f. Lack of candor, and false misrepresentation to the Court and Judge Moore,

**"Peter Beasley epitomizes the definition of a vexatious litigant"**. February 2, 2017; November 15, 2017.

### **Attorney Peter Vogel Willingly Violates his Professional Responsibilities**

34. Simply open the Texas Disciplinary Rules of Professional Conduct and it easy to find violations by Attorney Peter Vogel in nearly every one of the nine chapters. There are so many it's hard to tell which of his violations is the most egregious.

- a. Disciplinary Rule § 1.06 ó accepting representation as an advocate in a proceeding he has a personal interest, where Attorney Peter Vogel seeks not to become expelled from SIM if he allows Peter Beasley to maintain his Membership Chair, and that Attorney Peter Vogel has a vested interest in the financial resources of the organization in which he's a member.
- b. Disciplinary Rule § 1.06(a) Attorney Peter Vogel represented opposing parties to the same litigation, on April 4, 2016, holding a secret meeting of the SIM Dallas Board, but knowingly excluding Peter Beasley, a member of the full board Attorney Peter Vogel claims he actually represents<sup>1</sup>.
- c. Disciplinary Rule § 1.12(a) A lawyer employed or retained by an organization represents the entity, but Attorney Peter Vogel attempts and boasts that he represents the entity, AND its members<sup>2</sup>.
- d. Disciplinary Rule § 7.03 (a)(3) ó December 31, 2016, falsely telling the SIM members that it is a violation of the Texas Rules of Civil Procedure to talk with plaintiff about the lawsuit.
- e. Disciplinary Rule § 7.03 (a)(1) ó December 31, 2016, intimidating SIM members to not communicate with plaintiff to interfere with plaintiff's ability to conduct discovery.
- f. Disciplinary Rule § 4.01 (a) ó lying to SIM members about plaintiff on December 31, 2016.
- g. Disciplinary Rule § 3.04 ó obstructing plaintiff's access to discovery.
- h. Disciplinary Rule § 3.04(c)(1) ó habitually offering irrelevant evidence to the court.
- i. Disciplinary Rule § 3.04(c)(3) ó him habitually testifying himself about plaintiff's motives in filing the lawsuit, and falsely stating the justness of the cause.
- j. Disciplinary Rule § 8.04(a)(9) ó barratry, needlessly running-up the cost of litigation.

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<sup>1</sup> *In re Salazar*, 315 S.W.3d 279, 286 (Tex. App.-Fort Worth 2010, orig. proceeding) ("Thus, a lawyer may not be hired to represent a corporation by one of two factions in the organization against the other faction.").

<sup>2</sup> This rule reflects established law that "[i]n a corporation's affairs, there is but one client ó the corporation. *In re Marketing Investors Corp.*, 80 S.W.3d 44, 49 (Tex. App.-Dallas 1998).

- k. Disciplinary Rule § 7.02(a)(1) ó material misrepresentation that Attorney Peter Vogel represents the individual SIM members. Material misrepresentation that it is a violation of the rules of procedure for plaintiff to contact the members.
- l. Disciplinary Rule § 3.04(d) ó knowingly violating the March 29, 2016, Temporary Restraining Order of this court by holding a secret meeting of the SIM Board in his office to discuss the grounds of the forthcoming expulsion proceedings.

**Attorney Peter Vogel Files Frivolous Pleadings**

35. Attorney Peter Vogel prepared his utterly frivolous, failed Motion for Sanctions, to sanction Dan Jones, Jim Davis, Eric Fryar, Christina Richardson, Netwatch Solutions and Peter Beasley.

**Disqualifying Attorney Peter Vogel Works no Hardship**

36. Defendants will not be prejudiced by the disqualification of Attorney Peter Vogel as they remain represented by attorneys with Gordon Rees.

WHEREFORE: Plaintiff requests the court order the disqualification of Attorney Peter Vogel in these proceedings, and disqualification in any forthcoming actions defending or overturning the judgments of this court.

Respectfully submitted,

/s/Peter Beasley

Peter Beasley, pro se

P.O. Box 831359

Richardson, TX 75083-1359

(972) 365-1170

[pbeasley@netwatchsolutions.com](mailto:pbeasley@netwatchsolutions.com)

Certificate of Conference

On January 29, 2018, counsel for defendants indicated they are opposed to the motion and a hearing is therefore required.

/s/Peter Beasley  
Peter Beasley

Certificate of Service

I hereby certify that on the 5<sup>th</sup> day of February 2018, a true copy of the foregoing instrument was served on opposing counsel for the defendants by electronic means and the electronic transmissions were reported as complete.

/s/Peter Beasley  
Peter Beasley

COUNTY OF DALLAS §

My first, middle, and last name is Peter Morell Beasley, my date of birth is September 20, 1958, and my address is 12915 Fall Manor, Dallas, Texas, 75243, United States. I declare under penalty of perjury that the foregoing statements are true and correct.

6. Instead of withdrawing, Attorney Peter Vogel has embarked on a personal campaign to defame me, hurt my business and its customers and employees, and has cost SIM Dallas thousands, now approaching \$500,000 and Attorney Peter Vogel has caused SIM Dallas and me irreparable damage.

John Bushy  
Declarant

# Exhibit F

CAUSE NO. DC-18-05278

PETER BEASLEY,

Plaintiff,

v.

SOCIETY OF INFORMATION  
MANAGEMENT, DALLAS AREA  
CHAPTER, et al.,

Defendant.

§  
§  
§  
§  
§  
§  
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§  
§

IN THE DISTRICT COURT

DALLAS COUNTY, TEXAS

191<sup>st</sup> JUDICIAL DISTRICT

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ORDER GRANTING DEFENDANTS' MOTION TO STRIKE

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On June 11, 2019 Defendants' Motion to Strike was heard. The Court, having considered the pleadings and arguments of counsel, is of the opinion that Defendants' Motion should be **GRANTED** and Plaintiff's Motion to Disqualify Attorney and Motion to Show Authority filed May 14, 2019 and Motion to Dismiss filed May 30, 2019 should be stricken from the docket.

**IT IS THEREFORE ORDERED** that Defendants' Motion to Strike is **GRANTED** and Plaintiff's Motion to Disqualify Attorney and Motion to Show Authority filed May 14, 2019 and Plaintiff's Motion to Dismiss filed May 30, 2019 are hereby struck from the Court's docket and the hearing on June 14, 2019 is hereby cancelled.

Signed this 11<sup>th</sup> day of June, 2019.

  
\_\_\_\_\_  
JUDGE PRESIDING



# Exhibit G

CAUSE NO. DC-18-05278

PETER BEASLEY,	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
v.	§	
	§	DALLAS COUNTY, TEXAS
SOCIETY OF INFORMATION	§	
MANAGEMENT, DALLAS AREA	§	
CHAPTER, et al.,	§	
	§	
Defendant.	§	191 <sup>st</sup> JUDICIAL DISTRICT

---

DEFENDANTS' MOTION TO STRIKE

---

Peter Beasley continues to demonstrate his vexatious nature by filing multiple baseless, frivolous, and sanctionable motions while this case remains stayed. TEX. CIV. PRAC. & REM. CODE 11.052(a)(2). Because the case is stayed, Beasley is not entitled to a hearing on any of the motions currently set for hearing on June 14, 2019.<sup>1</sup> Instead, Beasley's claims are all subject to dismissal for his failure to pay the security required under the Chapter 11. TEX. CIV. PRAC. & REM. CODE 11.055(a).

This Court's December 11, 2018 Order is clear:

Plaintiff Peter Beasley is required to post bond in the amount of \$422,064.00 with the District Clerk as security per TEX. CIV. PRAC. & REM. CODE Sec. 11.055 within thirty (30) days of this Order. If such security is not timely posted, this case **will be dismissed with prejudice** per TEX. CIV. PRAC. & REM. CODE sec. 11.056.

**This Court has no discretion to consider any further motions filed by Beasley due to his failure to pay the required security.** *Gant v. Grand Prairie Ford, L.P.*,

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<sup>1</sup> Beasley has set his Motion to Disqualify Attorney Peter Vogel, Motion to Show Authority, Motion to Dismiss Defendants' Counterclaims, Motion to Restore Case to Active Status, and Motion to Mediate for hearing on June 14, 2019 at 2:00 pm.

No. 02-06-00386-CV, 2007 Tex.App. LEXIS 5727, 2007 WL 2067753, \*9 (Tex.App.—Fort Worth July 19, 2007) (pet. denied) (after trial court declared plaintiff a vexatious litigant, trial court had a duty as a matter of statutory law to dismiss plaintiff’s lawsuit after plaintiff failed to furnish required security within time ordered).

**Moreover, Defendants are not even required to respond to Beasley’s vexatious and frivolous motions due to the stay.** Section 11.052(a)(2) is clear: “On the filing of a motion under Section 11.051, the litigation is stayed and the moving defendant is not required to plead if the motion is granted, before the 10<sup>th</sup> day after the date the moving defendant receives written notice that the plaintiff has furnished the required security.” TEX. CIV. PRAC. & REM. CODE Sec. 11.052(a)(2) (emphasis added); *see also*, *Drum v. Calhoun*, 299 S.W.3d 360, 369 (Tex.App.—Dallas 2009) (pet. denied) (when a vexatious litigant motion is granted, the litigation remains stayed as a matter of statutory law until the vexatious litigant posts the required security); *Willms v. Ams. Tire Co.*, 190 S.W.3d 796, 804 (Tex. App.—Dallas 2006) (pet. denied) (“When a defendant files a motion pursuant to section 11.051, the litigation is stayed until the tenth day after the motion is denied or the tenth day after the defendant receives notice that the plaintiff has furnished the required security.”). Beasley has not provided the required security. Defendants are not required to respond to any of Beasley’s motions and this Court should not consider any of his pending requests for relief.

Accordingly, and for the reasons argued above this Court should strike Beasley’s pending motions to Disqualify Peter Vogel; Motion to Show Authority; Motion to Dismiss Defendants’ Counterclaims, with prejudice, to Restore Case to Active Status,

and for Mediation and sign Defendants' previously submitted Final Order of Dismissal and Take Nothing Judgment.

Movants also request that Plaintiff be sanctioned for his gross abuse of the legal process in continuing to file motions that violate the Court's stay and needlessly increase the fee spend for this frivolous action.

Respectfully submitted,

**GORDON & REES**

/s/ Soña J. Garcia

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**ATTORNEYS FOR DEFENDANTS**

### **CERTIFICATE OF CONFERENCE**

Plaintiff Peter Beasley's pending motions to disqualify Peter Vogel and motion to show authority as to Mr. Vogel as counsel for Defendants are at least his third attempt to have such a motion heard since 2017. Defendants have responded previously to Plaintiff's misguided motions to disqualify and show authority. The Fifth Court of Appeals has twice denied Plaintiff's Motions to Show Authority. Additionally, Plaintiff's attempt to side-step the requirements of TEX. CIV. PRAC. & REM CODE Sec. 11.055 and seek to have his motions heard without paying the required security are consistent with his vexatious behavior in front of this and other Courts. Given Plaintiff's behavior, conferring on the requested relief is futile.

/s/ Soña J. Garcia

Soña J. Garcia

### **CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing document was served pursuant to TEXAS RULES OF CIVIL PROCEDURE 21 and 21a on Plaintiff via electronic service on June 3, 2019.

/s/ Soña J. Garcia

Soña J. Garcia

# Exhibit H

GENDER

# Female Supreme Court Justices Are Interrupted More by Male Justices and Advocates

by [Tonja Jacobi](#) and [Dylan Schweers](#)

APRIL 11, 2017



During the Senate hearings on whether he should become the next associate justice of the Supreme Court, Neil Gorsuch maintained iron discipline in refusing to commit himself to any position that could count against him. Gorsuch maintained a steadfastly calm demeanor, but he showed his cards in one regard: He could not help repeatedly interrupting the liberal female senators. In this way, he proved himself to be well qualified to sit on the highest judicial bench. Our new empirical study

[Exhibit A](#)

shows that the male justices interrupt the female justices approximately three times as often as they interrupt each other during oral arguments. And the conservative justices interrupt the liberal justices more than twice as often as vice versa.

We examined the transcripts of 15 years of Supreme Court oral arguments, finding that women do not have an equal opportunity to be heard on the highest court in the land. In fact, as more women join the court, the reaction of the male justices has been to increase their interruptions of the female justices. Many male justices are now interrupting female justices at double-digit rates per term, but the reverse is almost never true. In the last 12 years, during which women made up, on average, 24% of the bench, 32% of interruptions were *of* the female justices, but only 4% were *by* the female justices.

These results are not limited to the current Supreme Court. We conducted an in-depth analysis of the 1990, 2002, and 2015 terms to see whether the same patterns held when there were fewer female justices on the court. We found a consistently gendered pattern: In 1990, with one woman on the bench (former Justice Sandra Day O'Connor), 35.7% of interruptions were directed at her; in 2002, 45.3% were directed at the two female justices (O'Connor and Ruth Bader Ginsburg); in 2015, 65.9% of all interruptions on the court were directed at the three female justices on the bench (Ginsburg, Sonia Sotomayor, and Elena Kagan). With more women on the court, the situation only seems to be getting worse.

Prior research in linguistics and psychology has shown that women are routinely interrupted by men, be it in one-on-one conversations or in groups, at work or in social situations. Interruptions are attempts at dominance, and so the more powerful a woman becomes, the less often she should be interrupted. Yet even though Supreme Court justices are some of the most powerful individuals in the country, female justices find themselves consistently interrupted not only by their male colleagues but also by their subordinates: the male advocates who are attempting to persuade them.

Despite strict rules mandating that advocates stop talking immediately when a justice begins speaking, interruptions by male advocates account for approximately 10% of all interruptions that occur in court (excluding justices interrupting advocates, which is standard procedure). In contrast, interruptions by female advocates account for approximately 0%. The problem was particularly



observable when, in 2015, male advocates interrupting Justice Sotomayor was the most common form of interruptions of any justice, accounting for 8% of all interruptions in the court. Justice Sotomayor is also the court's only woman of color.

Can this pattern be explained by other factors? Of the 113 justices to have served on the Supreme Court, only four have been women, and three of those four were appointed by Democratic presidents. We expected that partisan differences could account for some portion of the interruptions. Since justices do not always vote in accordance with the party of their nominating president, we used Martin-Quinn scores, the most common way to analyze judicial ideology, to determine how liberal or conservative each justice was. We found that conservative justices disproportionately interrupt liberal justices: 70% of interruptions were of liberals; only 30% were of conservatives. In addition, advocates interrupt liberal justices more than they interrupt conservative justices. Despite this pattern, gender is the stronger factor in interruption: In 1990 the moderately conservative Justice O'Connor was interrupted 2.8 times as often as the average male justice. (It is worth noting that the results were not driven by Antonin Scalia, despite his reputation as a particularly pugnacious justice.)

Two of the three sitting female justices, Kagan and Sotomayor, are the most junior justices on the court. But, once again, seniority does not explain the gender pattern. Although senior justices do interrupt junior justices more frequently than vice versa, and the difference is statistically significant, gender is approximately 30 times more powerful than seniority. The most junior justice on the court will now be Gorsuch, and we expect the greater importance of gender over seniority to become even more apparent.

Length of tenure does matter in one particular respect: Time on the court gives women a chance to learn how to avoid being interrupted – by talking more like men. Early in their tenure, female justices tend to frame questions politely, using prefatory words such as “May I ask,” “Can I ask,” “Excuse me,” or the advocate's name. This provides an opportunity for another justice to jump in before the speaker gets to the substance of her question.

We found that women gradually learn to set aside such politeness. All four of the female justices have reduced their tendency to use this polite phrasing. Justice Sotomayor adjusted within just a few months. Justices O'Connor and Ginsburg gradually became less and less polite over decades on

the court, eventually using the polite phrases approximately one-third as much as they did initially. Justice Kagan is still learning: She uses polite language more than twice as often as the average man, although half as often as she did in 2010. We do not see a similar trend with the men, because male justices rarely use these polite speech patterns, even when they first enter the court. It is the women who adapt their speech patterns to match those of the men.

These behavior patterns are important, as oral arguments shape case outcomes. When a female justice is interrupted, her concern is often left unaddressed, which limits her ability to influence the outcome of the case. Women changing their questioning techniques should not be the only response to this problem. The chief justice should play a larger role as referee, enforcing the rule that prohibits advocates from interrupting the justices, and preventing an interrupting justice from continuing.

Our research aligns with previous research that has shown that women get talked over much more often than men in all sorts of settings, likely due to unconscious bias. What our findings additionally suggest is that there is no point at which a woman is high-status enough to avoid being interrupted.

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Tonja Jacobi is a professor at Northwestern Pritzker School of Law.

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Dylan Schweers is a J.D. candidate at Northwestern Pritzker School of Law.

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**This article is about GENDER**

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EXHIBIT H



8 COMMENTS

**Scott Johnson** a year ago

I think it would be more useful to know how much each Justice gets to speak in # of words. If a female Justice is using dominating behavior to hold the floor and not allowing male Justices the opportunity to speak without interrupting her, then that casts an entirely different light on things. I am not suggesting that female Justices would do this intentionally; but if you're going to interpret male justice interruptions of females to be signs of dominating behavior, then you must also consider women naturally talking more to also be a type of domination.

Personally, I think women and men navigate these types of relationships quite well without outside interference. But if you want to convince me that females on the court are being "dominated" by male Justices, then please give me an actual word count for each justice. Otherwise, the data is insufficient to show that female Justices are being dominated by male Justices. I need more data...

 Reply

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